

D. G. Thomas

ARKANSAS

and

ITS PEOPLE

A History, 1541-1930

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VOLUME I

THE AMERICAN HISTORICAL SOCIETY, INC.,

NEW YORK

1930

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1930

FOREWORD

WHILE it is a pleasure for the historian to write of Arkansas, it is by no means an easy task. The difficulty arises from a habit of ours which is not common in all the states, carelessness in preserving historical material and indifference to making easily available that which has been preserved. It is almost impossible to find in any one place a complete set of the official documents of our State. In many cases our county and municipal records are lost or in bad shape. Complete files of newspapers, which record our history from day to day, are rare, especially of papers of any age. Few letters and papers of prominent people have been brought together in one place. Attention is called to these facts in the hope that this publicity will give a slight stimulus to coöperation with our libraries and the State History Commission in the assembling and preservation of such material where it will be available for study.

In spite of all these difficulties several creditable histories of Arkansas have been written. Then why a new history at this time? Each generation wants the whole story written anew for itself; that is one reason why new histories of the Revolution and our early national period are still coming out. Another is the discovery of new material which occasionally changes our point of view. Still another for this State is that Arkansas is making more and more history of importance and significance year by year and of this much has been made since the last history of the State was written. A review of the older story, the drama of early exploration and settlement, of pioneer life, territorial affairs and Statehood days, especially when given a different setting, will serve as an interesting background for our more recent history.

Two years ago, when this book was announced, it was stated: "The purpose is to omit nothing which will be of service in giving an accurate picture and true story of the State." Our intentions were good in making this statement, but our "aim" was slightly inaccurate. This is simply because there is so much more in our history than was anticipated that it was impossible to crowd it all into these volumes.

Our chief guides in the way of histories have been the several volumes put out by the Goodspeed Publishing Company and the works of Fay Hempstead and Dallas T. Herndon. Due acknowledgment is made to these writers in the footnotes. But in most cases the writers of these volumes have gone to the sources. In particular a considerable use has been made of newspapers, as the footnotes will testify. This use of sources has enabled them to correct some of the mistakes made by previous writers and we hope that the next history will correct ours. The bibliography at the end of the history lists most of the books now available for such writing.

Many writers have contributed to the making of these volumes. With surprising readiness they agreed to coöperate when requested. A few others would have been glad to help, but pressing obligations would not permit them to do so. As the name of each contributor appears with the part he or she wrote, it is unnecessary to mention any of them here. The Editor is aware of the fact that there are certain disadvantages in such coöperative writing, but there are certain advantages in a work of this kind which it seems hardly worth while to discuss.

In addition to the contributors many others helped by giving information or furnishing pictures or cuts for the illustrations. To each and every one of these the Editor and Publishers wish to express their appreciation and heartfelt thanks. Also, the Editor and the contributors are grateful to the Publishers for their kind forbearance when "copy" became overdue and for furnishing one of their staff, Mr. E. P. Conklin, to help out in emergencies; also to Mr. Conklin for the energy he put into the work.

THE EDITOR.

ANNOUNCEMENT

IN placing before the public this history of Arkansas the publishers are more than willing to let its pages speak for themselves, confident that the verdict of the reader will be far more favorable than any advance publishers' statements. As Dr. Thomas has stated, the names of all contributors are identified with the sections they have written. However, there has been a group of contributors who have not touched pen to paper in the compilation of these volumes, yet whose contribution of interest, support, and advice, when needed, has been an important factor in the success of the work. Reference is made to the members of the Advisory Board, as follows: Hon. Harvey Parnell, Dr. Charles H. Brough, Hon. Thaddeus H. Caraway, Mr. William H. Arnold, Jr., N. J. Gantt, Mr. A. B. Hill, Mr. George Vaughan, Mrs. Minnie Rutherford Fuller, Dr. J. D. Hammonds, Professor Sidney Pickens, H. B. McKenzie, Mrs. Lora Gaines Goolsby. To them, and to the others, from Dr. Thomas to the humblest typist, who gave of their thought and labor to the production of these volumes, sincere appreciation is extended by

THE PUBLISHERS.

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ARKANSAS AND ITS PEOPLE

PART I—1541-1865

By A. L. BRAMLETT, Ph. D.,
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and
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CHAPTER I.

GEOGRAPHY AND GEOGRAPHICAL INFLUENCES.

Arkansas lies west of the Mississippi River between the parallels of 33° and 36° 30′ north latitude; except, of course, for the "jog" in the northern boundary line in the northeast corner of the State between the St. Francis and Mississippi rivers. It is bounded by Missouri on the north, the Mississippi River on the east, Louisiana and Texas on the south, and by Texas and Oklahoma on the west. On the east, Arkansas extends to the middle of the main channel of the Mississippi, but the center of this channel constantly shifts to the east or to the west. The area of the State, according to the United States surveys, is 53,335 square miles, of which 810 are water.

The western boundary line has been fixed by treaties, by acts of Congress, and by agreements with the Cherokees and Choctaw Indians. It was at first limited by the extent of the Louisiana Purchase; then, in 1819, at the time of the Florida Purchase, the hundredth degree of west longitude was made the western boundary in the territory between the Arkansas and Red rivers. Again in 1824 Congress made this boundary a line running from "a point forty miles west of the southwest corner of the state of Missouri" due south to the Red River. But very soon the Secretary of War, John C. Calhoun, changed it again in a treaty with the Choctaw Indians and made it run from a point on the Arkansas River, one hundred paces east of old Fort Smith, due south to the Red River; which is the present boundary line south of the Arkansas River. The present boundary north of the Arkansas River begins at the spot on the river touched by the above described line, and runs due north to the southwest corner of Missouri. In 1907 Congress took about forty acres from Oklahoma just west of Fort Smith and gave it to Arkansas, but her constitution has never been amended so as to include it.

The boundary on the southwest between Spanish territory and the United States was never run. Then later it became a matter of dispute, a three-cornered controversy, between the United States, Mexico, and Arkansas. Miller County, in the great bend of the Red River, is the only part of the state west of that river. After Texas secured her independence, she and the United States provided for a survey which definitely located the southwestern boundary. A portion of Miller County was given to Texas and it was said to have pleased most of the people there, who preferred the laws of Texas to those of Arkansas.

The northern and southern boundary lines were placed on parallels of

latitude by acts of Congress when the territory of Arkansas was organized in 1819. In 1823-24 commissioners from Missouri and Arkansas ran the northern boundary, and in 1830-31 commissioners under the direction of the United States and Louisiana ran the southern line along the parallel of 33° north latitude. While the parallel of 36° 30′ north latitude forms the northern boundary of the State west of the St. Francis River, between the St. Francis and the Missouri, it drops south to the 36° north latitude, and thus leaves a section of territory about the size of two counties in Missouri. The reason for this "jog" is not certainly known, but it was due, partly at least, to the influence of certain traders and settlers in that region, who preferred to cast their fortunes with the State of Missouri rather than the Territory of Arkansas. John H. Walker, a wealthy trader, planter and cattle raiser, lived in the region cut off from Arkansas and carried on a large business with New Madrid, Missouri. He is said to have done more than anyone else to secure the change in the line. Walker had influence in Missouri, and the politicians and land speculators about St. Louis and Arkansas Post wanted no difficulties thrown in the way of the organization of the new Arkansas Territory.[1]

The economic life of a people, with all its attendant political and social effects, is determined primarily by the geography of the country inhabited. Variation is the key-word in the geography of Arkansas. Its elevation above sea level varies from 200 feet to nearly 3,000 feet. Its physical features embrace valleys, level prairies, foot hills, plateaus, and mountains. There is a variety of soils and climate; the State therefore has a very wide range of products.

If a line is drawn from Missouri at the northwestern corner of Clay County, southwesterly to the northern boundary of Clark County, and thence directly west to the western border, the State will be divided into two geological areas; south and southwest of this line will lie the Gulf Coastal Plain. The fertile alluvial soil of this region, once covered by the Gulf of Mexico, raises the finest crops of cotton, corn, potatoes, rice, oats, and many other farm products. The homes of most of the rich planters in slavery days were in this region. Along the principal rivers the rich level bottom lands reach far into the interior; those of the Arkansas River extend across the State.

The northern division has valleys, many hills and mountains, as the Ozark and Boston mountains in the north and northwestern part of the State. The soil, as a rule, is not as fertile as it is in the southern portion, and part of it is very rough and poor. Some cotton, corn, tobacco, wheat, oats, rye, clover and grasses, fruits, and vegetables were raised there. Except on the fertile bottom lands, few slaves were owned. Population,

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1. John Hugh Reynolds: *The Western Boundary of Arkansas*, Publications Arkansas Historical Association, II, 220-28.

wealth and political influence were shifting to this region when the Civil War began.

Arkansas has many navigable streams that lead into the Mississippi. The eastern and southeastern part of the State, especially, has fine water transportation facilities. These rivers, as a rule, run in a southeasterly direction, and, in a remarkable degree, they parallel each other. No part of the State is very far from a navigable stream. From the northeast to the north central are the St. Francis, the Black, and the White rivers; in the center is the great Arkansas, with its important tributary, the Fourche La Fave; in the southeast and the south are the Saline, the Ouachita, and the Red rivers. These rivers are navigable long distances, and the Arkansas carried boats clear across the State up to the Civil War. Bulky cotton and corn could be easily loaded in boats on the rivers by the planters and shipped to New Orleans; and farming supplies, machinery, and merchandise could be brought on the return trips. This section dominated to a great extent the politics of the State before the Civil War, and the fact that it had water communication retarded the building of dirt roads and railroads. The greatest amount of internal improvements made during that time was in the construction of levees and the drainage of swamp lands in the south and southeastern part of the State.

The average climate of the State is about 63°, an average well suited for the growth of crops, and for the mental and physical vigor of the people. The average rainfall is about forty-five inches; the crop growing months have an average of about four inches.

The State has minerals of many kinds, from coal, oil, zinc, lead and building stones, to traces of gold and silver, and a few diamonds. The old slave owners, who invested their capital in slaves and land, took no interest in mining. The non-slave-holding part of the State had just secured enough capital to begin a small amount of mining and manufacturing a short time before the Civil War. This section of country lacked transportation facilities.

In the early days of the history of the State its forests abounded in useful timbers, from the cottonwood, cypress, and gums, to the poplars, oaks, walnuts, hickories, and pines. The first settlers avoided the heavily timbered lands and swamps. Wild fruits were found in abundance, such as mulberries, plums, grapes, persimmons, peaches, nuts, and berries. Wild animals were indeed plentiful; bears, deer, wolves, some buffaloes, panthers, foxes, wild cats, o'possums, raccoons, squirrels, minks, otters, etc.; great flocks of turkeys, geese, ducks, prairie hens, and partridges. It is no wonder that hunting played such an important part in the early history of the State. The people could live on the resources of the streams and forests. From these the hunters secured much of their food, and clothing, and sold hides, wild meat, and the liquid, transparent bear

oil. But the isolated, wandering life of the hunter was not conducive to the economic, political, and social development of the country.[2]

Geographies and some other books published before the Civil War contained much that tended to keep immigrants away from the State. A widely read geography published in 1833 stated that parts of Arkansas had a fine climate, a very fertile soil, unflooded lands, large navigable rivers, and great natural resources, but in addition stated that the country was a "dead level," that the rains could not be drained off, and that sickness was a natural result. It spoke of mosquitoes and fevers as common. At that time no one knew of any connection between the two. There was much truth in the stories of swamps and flooded lands and dense forests. Why, thought the immigrant, should he endure mosquitoes, risk fevers, drain swamps or clear dense forests when high and dry prairie lands could be found elsewhere, or why pay a minimum of $1.25 an acre for government land when the rich lands of Texas could be had for twelve and a half cents an acre. So, when following the setting sun, he came from the older South to the swamps and flooded lands of eastern Arkansas, he was inclined to search for more attractive fields. Slavery also kept some settlers away, especially foreigners and immigrants from the free States. All of these things account for the fact that the population of Arkansas before the Civil War did not grow as rapidly as was the case in some other places.[3]

The name of the State comes originally from a tribe of Indians who at the time of the early French explorers lived west of the Mississippi and north of the Arkansas River. The name of this tribe has been written about seventy different ways, due to the fact that different people spelled the name according to the sound of the word, as it was called by the Indians and others. The name of the State, the Arkansas River, the Arkansas Post, and Territory of Arkansas were all originally derived from the name of this tribe of Indians. The French first undertook to spell it; so it is first a Gallicized Indian name. In Father Marquette and Joliet's Journal of 1673, the Indian name is spelled "Akansea." In La Salle's map of a few years later, it is "Acansa." Hennepin, about 1681, wrote it "Akansa." A map based on the journeys of La Harpe in 1718-1722, has the Arkansas River written "Arkansas"; and the tribe of Indians at its mouth, "Les Akansa." Captain Zebulon Pike, the noted explorer, about 1811, spelled it, no doubt, just as he thought it should be, "Arkansaw." Then Nuttall, an educated man, while traveling in Arkansas in 1819, wrote it both "Arkansas" and "Arkansa," thus making a difference in the plural and singular. The final "s" was not often used by

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2. Herndon: *Centennial History of Arkansas*, I, 28-30; Timothy Flint: *History and Geography of the Mississippi Valley*, I, 283-84.

3. Flint, I, 277-79, 282, 284. Publications of the Arkansas Historical Association, III, 60.



NATURAL DAM NEAR FORT SMITH

very early writers. If used, it was intended to express the plural of the word.

In the act of Congress, in 1819, creating the territory of Arkansas, some one wrote the word ten times, and always "Arkansaw." But the people securing the formation of their territory had their minds filled with commercial and political matters, and perhaps had little time for a small matter of spelling. About this time in a treaty with the Quapaw Indians, it was written "Arkansaw." It seems that when political matters were carried on by newcomers, principally office-holders and land speculators who knew perhaps nothing of the old Gallicized Indian name, the spelling "Arkansaw" became very frequently used. The French, and those who knew French, no doubt sounded the Indian ending of the word, spelled variously "sa," "ças," and "sas," somewhat like the English word "saw," without sounding it too flat. This would account for the spelling of the word "Arkansaw" instead of "Arkansas," by English immigrants from other states.

There seems to have been no controversy in the early days about the pronounciation of the name. Chester Ashley and a few others pronounced the syllable "sas" in the word "Arkansas" just like the "sas" in pronounced in "Kansas." Very likely new settlers who knew nothing about the Gallicized old Indian name (the French never sounded an "s" on the end of the word) saw no difference in the "sas" in "Arkansas" and in "Kansas." Perhaps, too, some foppishly inclined folks wanted to steer clear of any suggestion of the "Arkansaw Traveller" after that story made the State somewhat notorious. In 1881 the Arkansas Legislature settled the matter by legal enactment. It declared that the word should be pronounced in three syllables, with the final "s" silent, the "a" in each syllable with the Italian sound, and the accent on the first and last syllables "being the pronounciation formerly, universally, and still most commonly used . . . ." So derivation, the oldest and most common usage, and the majesty of the law, have all helped to determine the spelling and pronounciation of the name of the State. Yet, today, outside the law abiding State of Arkansas, some people continue to sound the "sas" as it is in Kansas.[4]

4. Report in 1880 by a committee of two literary societies, found in the Publications of the Arkansas Historical Association, II, 463-67; Herndon, I, 149-51.

CHAPTER II.

DISCOVERY AND EXPLORATIONS.

Arkansas history begins with the coming of Hernando de Soto, in 1541, nearly three-quarters of a century before an English or a French settlement was made in America. After the discovery of America, the Spaniards had their abiding interests only in places where gold and silver were known to exist. In their adventurous and heroic search for these precious metals, they were led across strange lands, disease infected swamps; across deep rivers and mountains; through trackless forests, filled with wild beasts and savage Indians. The only ones who could succeed in such bold enterprises were the bravest and most daring, like Cortez, Pizarro, Coronado, and De Soto. And De Soto was a typical Spanish adventurer—ambitious, brave, cruel, proud, haughty and resourceful. He was a Spanish nobleman, well educated, and had served under Pizarro in Peru, where he had gained experience, fame and fortune. He asked the king of Spain for the Governorship of Cuba, and the privilege of conquering Florida.

He came to Cuba, but very soon (May, 1539) landed in Florida with a well equipped following of over 500 men, 200 or 300 horses, and bloodhounds. De Soto set out from Tampa Bay for the rainbow's end of fortune and fame. For about two years the Spaniards roamed through the wilderness of the present states of Florida, Georgia, Alabama, and Mississippi. They endured many hardships, suffered from disease and the attacks of the Indians. They robbed and murdered the natives for food, clothing and shelter. They also compelled the natives to act as servants and slaves for them.

After spending the winter of 1540-41 somewhere in northern Mississippi, De Soto and his followers set out in a northwest direction and in May, 1541, came to the Mississippi River, perhaps near the present city of Memphis, Tennessee, and soon were the first whites or Europeans to set foot upon the soil of Arkansas. Across the river they saw, as given in their own words, "a fair and pleasant land."

They had come to the largest river they had ever seen, called by the Indians the Mes-cha-ce-be; but which the Spaniards called the Rio Grande. They thought it to be about "a league wide, and nineteen to twenty fathoms deep." These explorers were wholly unaware of the importance of this discovery. They had no vision of this great river in the future, carrying the trade and commerce of its great valley inhabited by a prosperous and happy people. It took about a month for the Span-

iards to prepare barges or flatboats to cross. During this time the Indians on the eastern side of the river were friendly, and furnished supplies to De Soto. But those on the west side, who knew nothing of the Spaniards, and who viewed their coming with a mingled feeling of awe, curiosity, and fear, at times showed hostility. Once the Spaniards were very much surprised to see a fleet of about 200 canoes, filled with these Indians, painted and decorated, the warriors standing erect, armed with bows and arrows, their chieftains sitting under awnings of woven cloth. They were apparently bearing gifts of food. This scene seemed to the Spaniards "like a fair army of galleys." They suspected treachery and hostility on the part of the Indians and drove them away.

It is quite impossible to trace accurately the route of De Soto in his wanderings through Arkansas. The records kept of the expedition were of the most meagre kind. The rivers, mountains and other landmarks were unnamed, and left so; dates and distances and directions were sparingly given, or guessed at. The names of Indian villages were generally given, but these people, because of wars and migrations, did not have places of permanent abode. Trails upon which some writers rely have, no doubt, changed with the shifting locations of the various tribes. And then, too, over 125 years were to pass before other white people set foot on Arkansas soil. Hernandez de Biedma, a member of the expedition and a friend of De Soto, kept a brief diary of the wanderings in Arkansas which filled about three printed pages. A Portuguese adventurer with the expedition who called himself the "Gentleman of Elvas" wrote a narrative story of nearly twenty pages, but his writing contains many doubtful stories and Indian speeches. Later, Garcilasso de la Vega wrote an account of the expedition as it was described to him by one of the survivors. He rather boastfully claims accuracy for his narrative.

After having crossed the Mississippi safely, De Soto at once started up the river. He soon came to Aquixo, a village somewhere in the present Crittenden County, and here he was told by the natives that a three days journey up the river would bring him to the dwelling of a great cacique of the province of Casqui. The Indians everywhere were anxious to get rid of the Spaniards, and seemed quite willing to pass them on to others. The Indians seemed unable to unite in order to drive the marauders from their country. De Soto decided at once to go to Casqui. The Spaniards waded through swamps covered with water, and then came to a village on higher, drier land. Some of the natives fled; a few were captured; and some were killed. Then after a three days' journey, Casqui, the home of the Cacique, was reached. The direction of this march was not given, but Casqui was probably on the St. Francis River, not so very far above its mouth. The Spaniards were worshipped as children of the Great Sun, and brought presents of food and cloth. The

Indians asked De Soto to heal the blind, but he begged to be excused. He did, however, set up a cross for them and took this opportunity to say that the Lord represented by the cross expected the Indians to furnish the Spaniards food, cloth, and similar supplies.

After leaving Casqui, many villages and mounds were passed. The expedition was now no doubt between the St. Francis and Mississippi, and the country must have been higher and drier than it is today, as the earthquakes of 1811-12 (nearly 300 years later) caused a sinking of the land.

De Soto came to Pacaha, near the Mississippi, which was the farthest north reached on his journey in this section. "The Gentleman of Elvas" gives the time as June 19, 1541. He describes the place as being "very great, walled, and beset with towers, and many loopholes were in the towers and walls. And in the town was a great store of old maize,—where the governor lodged was a great lake, that came near unto the wall; and it entered into a ditch that went round about the town . . . From the lake to the great river was made a wear (*sic*) by which the fish came into it, which the cacique kept for his recreation and sport." He describes several kinds of the fish. "There was another fish called the peel fish; it had a snout of a cubit long, . . . and in the river there were some 150 pounds weight, and many of them were taken with the hook." From here, Pacaha, De Soto sent out an exploring expedition which was gone eleven days. The country visited was reported to be sterile and thinly populated.

After leaving Pacaha, the expedition turned to the northeast, wandered through a wild country, turned to the southwest, and on August 4, 1541, came to a town called Quigaute, the largest one they had seen since leaving Florida. Biedma says the town was on the branch of a great river. Some people think that De Soto had now come to White River, while others believe that the place was on the Arkansas. The explorers remained at this town for a few days, securing food, clothing, slaves, and women from the Indians. Part of this town was burned.

After leaving Quigaute, a northwesterly direction was taken, and after eleven days journey, they came to a province called Caligua or Coligoa, near the mountains where the Indians went to hunt buffaloes, and where De Soto and his companions hoped to find gold and silver. It was a place of "fat soil and plenty of maize." Coligoa, thus described, was doubtless between the White and Arkansas rivers near the Ozark Mountains. (Could the "fat lands" have been the "Oil" Trough Bottoms near Batesville?)

At this time, the summer of 1541, Coronado, a bold Spanish explorer from Mexico, was wandering in the country northwest of De Soto, within reach of a messenger, if De Soto had only known it.

From Coligoa, the Spaniards turned to the south or southwest and, after travelling for about nine days, reached a town called Cayas, where there was good pasturage for the horses, and houses and maize to be taken from the Indians. Here was found salt which the Indians secured by raking up the sand along the river, putting it in baskets, and letting water filter through it. The water was then evaporated by boiling in a pan, thus leaving the salt. Here they found "a lake of very hot water, and brackish." It seems pretty certain that they were now encamped on the Ouachita River near the present Hot Springs.

Now De Soto began to seek a place for winter quarters. He wanted to find an Indian settlement with enough houses to accommodate his men, pasturage for his horses, and enough Indians for slaves and women. He finally decided to winter at a province called Autiamque, which he was informed lay about twelve days journey to the southwest of Cayas. In addition to being well populated, De Soto was told that it was near a body of water that he thought might be an arm of the sea. From there fresh supplies of men and horses might be secured from Cuba. By this time 250 men and 150 horses had been lost. And, too, one of the chroniclers says that for three years De Soto's "Donna Isabella" in Cuba had not heard from him.

After a roundabout journey of about two weeks, across mountains to the south of Cayas (Hot Springs?), to various places, to the "foot of high mountains," and across the Red River; the weary travellers reached a village in Autiamque. It lay in a plain just beyond the mountains, and near it "a river that came out of the province of Cayas," says Biedma. So the winter quarters were on the Ouachita; and far above its mouth, as later De Soto travelled down the Ouachita ten days "towards the Great River." It must have been some distance above the mouth of the Saline River. The Spaniards took possession of the town, giving the "Governor" the best part of it. They took more slaves, men and women, and compelled them to build a stockade. The supplies secured were of all sorts: corn, beans, and walnuts, besides mantles and skins. Here Juan Ortez, De Soto's faithful interpreter, died. He had known many Indian languages, and his death was a serious loss.

On March 6, 1542, the Spaniards left Autiamque with the intention of reaching the sea. After travelling down the river for ten days, they crossed one (perhaps the same, the Ouachita) on rafts or barges. Then they entered a wilderness, "a country so low, full of lakes, and evil ways." Food was scarce, and the Indians were troublesome. De Soto had now doubtless crossed the southern boundary of the State. The Spaniards reached a river "that fell into the Great River." This must have been the Red River. De Soto heard of the town of Guachoya on the Great River

where he intended to build brigantines to send to Cuba "to let them know that he was still alive."

His scouts found only large creeks, canebrakes, thick woods, and no habitations. The "governor fell into great dumps to see how hard it was to get to the sea, and worse because his men and horses were diminished." The Indians grew defiant. But the Spaniard could kill Indians yet. In speaking of the slaughter of the natives at Nilco, the Gentleman of Elvas said: "The shrieks of women and children were so great that it made the ears deaf of those who followed them. . . . Some (Spaniards) killed old and young . . . . and all they met, though they made no resistance."

On May 2, 1542, De Soto, the "valiant and virtuous" died. He was probably wrapped in some old mantles which were weighted with sand and dropped at night into the Mississippi.

The Spaniards made other wanderings under the new leader, Louis de Moscoso, and at the mouth of the Arkansas or Red River (doubtless the latter) they built, with much labor, seven brigantines or boats, and floated down the "Great River" to the Gulf of Mexico.

In September, 1543, they reached their people in Mexico, "blackened, haggard, shriveled, half naked," clad in skins, "looking more like beasts than human beings." They "kissed the ground when they landed . . . and their eyes to heaven, remained untiring in giving thanks to God." Thus ended one of the most remarkable expeditions in all history.[1]

This expedition is of historical interest, but what were its results? What effect did it have on the history of Arkansas? Its object was a failure; no gold or precious metals were found. The Spaniards learned something of the geography of the country; its rivers, mountains, soil, climate, and inhabitants. The natives had met them in peace and friendship, but they were robbed and murdered for their villages and homes, food and clothing. They had been enslaved, killed, and their women debauched. They were cut down with the sword on the slightest provocation. Sometimes they were maimed and crippled as examples to others. It had been a robbing and murdering expedition, yet the Spaniards had with them priests, who carried the cross and called themselves Christians. These priests could dangle the cross or crucifix before the eyes of the poor, dying wretches and absolve their souls.

The Indians, we learn, had formed a tribal system of government. They lived in villages, raised crops of maize, a few vegetables, and fruits. They went on hunting expeditions and engaged in wars. Their religion was simple and childlike. Their civilization was somewhat beyond the nomadic.

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1. The foregoing account is taken from *Biedma and the Gentleman of Elvas* in Publications of Arkansas Historical Association, I, 466-99; Herndon, I, 73-84; Ogg: *Opening of the Mississippi*, 125-42; Goodspeed Publishing Company, *Northeast Arkansas*, 496-98.

One hundred and thirty-one years after De Soto, in 1673, a small band of French were the next white people to come to Arkansas. Spain had not profited by the expedition of De Soto, either by further explorations or to claim the Mississippi Valley. By this time the English had taken possession of the Atlantic Coast, and according to their charters to colonizing companies, laid claim to all the land between certain parallels to the "south seas." The English charter of 1665 to the eight Lord Proprietors for Carolina included Arkansas. The French had now settled on the St. Lawrence, and were rapidly pushing their explorations and claims to the west and southwest.

When the French first came into the region of the Great Lakes, they heard stories of the Mighty River far to the west and southwest. The ambitious Louis XIV of France and his great minister, Colbert, believed that this river might lead into the Pacific, and open for the French the long desired route to the rich Indies and China. The able governors and intendants of new France were filled with a desire to extend the colonial empire of their king; the shrewd fur traders wanted to make money; and the devout Jesuits, who were bound by sacred oaths to carry the Gospel to the remotest foreign lands, were anxious to preach to the Indians.

About 1665 the French learned of the great prairie regions, of the many Indians there to be converted, and of the "Missipi" River which might lead to the Indies.[2] By 1673, a retiring intendant, in Canada, Talon, wished to link his name with some great enterprise, and the new governor, Frontenac, the ablest of all the governors of New France, in the spring of 1673, gave permission and the necessary help for an expedition under the command of a priest and a trader. The Jesuit priest was Father Jacques Marquette, who said he would gladly lay down his life for the salvation of the souls of the poor savages, and attitude very different from that of De Soto. The trader, Louis Joliet, was principally an "envoy" of the king, to discover new countries.

On May 13, 1673, these men, in two canoes, accompanied by five rowers and two Indian guides, who later turned back, began their long journey by crossing Lake Michigan, ascending the Fox River to its source, and then over a short portage into the Wisconsin River. After descending it, they entered the Mississippi, June 17th.

Marquette wrote an interesting account of their observations and experiences. He noted the beautiful flowers, vast plains, shaggy buffaloes, and many other things. At one place, he says, "we met from time to time monstrous fish, which struck so violently against our canoes that we took them to be large trees, which threatened to upset us."[3]

They prepared their meals on shore, and slept at night anchored some

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2. Reuben Gold Thwaites: *France in America*, 56.
3. *Jesuit Relations*, LIV, 142.

distance from the banks for safety. Marquette preached to the Indians whenever possible. No Indians were robbed, killed or enslaved; whites and natives throughout the whole expedition met on friendly terms.

Near the Arkansas River, the Frenchmen came to a village on the west bank of the Mississippi called Mitchigama. Here a great crowd of Indians came out in large tree canoes, making a terrible uproar. They were armed with bows, arrows, clubs, and axes. Happy for the Frenchmen that De Soto and his cruelties were now only a tradition. Marquette held aloft his peace pipe, the calumet, and the danger ended in a hospitable welcome; with later a feast of mush, fish, and roasted dog meat.

Next day a long canoe appeared carrying ten men, who led the Frenchmen about ten leagues (twenty-five or thirty miles) to Akansea, near the mouth of the Arkansas River. Before this town was reached, however, Indians in two canoes met them, singing and bearing gifts of things to eat. When the canoes drew near, the leader of one stood up and offered the peace pipe. The visitors were lead to the village, received kindly and feasted. Marquette preached as usual. The Indians had steel axes—an unmistakable proof of their contact with Europeans.

Marquette and Joliet now realized that the main object of the expedition was accomplished. The Mississippi evidently did not enter the Pacific, but the Gulf of Mexico—the country of the Spaniards. To go farther would involve great danger; perhaps death from the Indians who evidently had firearms; or perhaps capture and death by the Spaniards. If they never returned, the French authorities would lose the benefit of the knowledge that had been gained by the expedition.

Accordingly, after a short rest, the party began the long, wearisome return journey, July 17, 1673. Joliet went directly to Quebec to make his official report, having made a map and a written account of the expedition. He lost these, however, when his boat capsized near the end of his long journey. Marquette returned to his missionary work. He had contracted malaria on his visit to the Arkansas River, and this no doubt hastened his death, which occurred in the forests of Michigan in 1675.

Nothing was immediately done to occupy the great Mississippi Valley. The French authorities had not only learned that this river afforded no water route to the Indies, but their geographical knowledge of the country was increased.

The next explorer to reach Arkansas was the greatest of them all, a man with a vision of a great New France, and plans for occupying and holding the Mississippi Valley. And with the coming of the great La Salle, the object of the expeditions changed from that of seeking gold, or of discovery, to the more important one of building forts, establishing colonies—empire building.

Sieur de la Salle was a well educated, talented son of wealthy French

parents. The governor of Canada at the beginning of La Salle's work was the bold, ambitious, able Frontenac. These two men planned to have a chain of forts built down the Mississippi, and to plant colonies in its valley. This would hold the country, control the Indians, and secure a monopoly of the fur trade. Frontenac, La Salle and many others were engaged in this industry. From 1666 to the time of his preparation for the trip down the Mississippi to its mouth, into the country of the Spaniards, La Salle traveled over the region about the Great Lakes, the upper Mississippi and Ohio rivers. He was a good trader, knew Indian ways and customs, and enjoyed the confidence of Frontenac.[4] He had interested Louis XIV and his great minister, Colbert, in his and Frontenac's plans.

On La Salle's return from France, he brought with him the man who is often called the Father of Arkansas, Henri de Tonty. He was a good soldier, persevering, loyal and brave. He had lost a hand in battle, and had an artificial iron one, which he kept covered with a glove. He could use it effectively in a fight at close range, and he received the name of "Tonty of the Iron Hand." La Salle needed a soldier as lieutenant because he did not propose to stop at the Arkansas, as Marquette and Joliet had done, but he intended to go to the very mouth of the river, among the Spaniards, if necessary, and claim the whole country for France.

After many delays and losses in preparation for the expedition, La Salle was at last ready. As far as the King of France was concerned, the official purpose of the expedition was to find a port for French ships in Mexico, to penetrate that country, and to explore further the western part of New France.

La Salle was accompanied by Father Hennepin, the chronicler of the expedition, the faithful Tonty, and quite a party of others. They left the Illinois country in the spring of 1682. The French stopped at De Soto's old crossing at Chickasaw Bluffs. Then they went to an Indian village at the mouth of the Arkansas. Here La Salle took formal possession of the territory for his king, Louis XIV. The Indians from the village of Kappa came in canoes to meet them as they had done for Marquette and Joliet, about ten years before. The chief came and exchanged the peace pipe. At the villages the visitors were feasted and entertained. At the largest village peace was formally confirmed; the Indians acknowledged the jurisdiction of the King of France over them and their territory. This was no doubt a strange ceremony to these simple savages. La Salle had not come to seek gold, to rob, and murder, as De Soto had done; nor to explore the country and convert the natives as was the purpose of Mar-

4. Thwaites: *France in America*, 60-65.

quette and Joliet. He came to take possession of this territory in the name of his king. Little did the poor savages realize that their age-long seclusion in the great woods and plains was now at an end. But only a few whites like La Salle had caught a vision of the coming immigrants into this great region, and its strategic importance in the making of New France.

After resting a few days among the friendly Indians near the mouth of the Arkansas, La Salle proceeded to the mouth of the Mississippi. Soon after reaching that place, April 9, 1682, he erected a large cross bearing the insignia of France and in an appropriate short speech, claimed the whole valley of the Mississippi and its tributaries for France. He called the country Louisiana in honor of his king. And the territory of the present State of Arkansas, as far as a mere claim could make it so, became a part of the French Empire, and received a name.

By a hard, toilsome journey, La Salle and his companions returned in their boats up the Mississippi. La Salle hastened to Quebec to make his report. But his friend and helper, Frontenac, had been replaced by La Barre, who was not very friendly toward La Salle. He found also that the English had now entered vigorously and effectively into competition with the French in the fur trade.

But La Salle never tarried at Quebec to parley with La Barre. He and Tonty had already begun to build forts in the upper part of the Mississippi Valley, principally to hold the country for France, and partly to help secure their own fur trade. La Salle had planned to build a line of forts all the way to the mouth of the Mississippi, and he was anxious to secure supplies and settlers for a colony at its mouth,[5] in order to hold that part of the country.

In France La Salle found that Colbert, who had realized the importance of his plans, was dead. But the king dealt generously with him. In July, 1684, four ships were secured; also soldiers, colonists, and supplies. He expected to find the mouth of the Mississippi and to found a colony some distance up the river. Unfortunately he went too far west and landed on the coast of Texas. But most unfortunately of all, he lost his ships by desertion, or by being wrecked; and with this loss, in addition, part of his men and most of his supplies. There was trouble with the Indians, lack of food, disease, desertions, mutinies, and various other discouragements; thus his troubles came thick and fast. At last, in 1687, La Salle was shot in a cowardly manner from ambush, his body stripped and left unburied to feed the vultures and the wolves. Thus had ended miserably or alone in the great wilds of America three men who had come to the Arkansas region—De Soto, Marquette, and La Salle. De Soto and La Salle were separated in length of time 145 years.

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5. Thwaites: *France in America*, 67.

La Salle's expeditions have further connection with Arkansas history. Tonty, of the "Iron Hand," the faithful, devoted friend, had gone down the Mississippi with a party of French and Indians to meet La Salle. There they waited and searched long and faithfully for him. As Tonty finally returned up the Mississippi he visited his old friends, the Arkansas Indians. And some land there had been granted to Tonty by La Salle when he returned from his trip to the mouth of the Mississippi a few years before. Now some of Tonty's companions, pleased with the country, the Indians, and its good situation for a trading post, begged Tonty to allow them to remain there. Tonty gave permission for ten of his men to establish a fort, to trade with the Indians, to cultivate land, and to make an effort to civilize the natives. He had constructed a store or commercial house of his own. It was located at an Indian village called Assotone, a short distance from the mouth of the Arkansas. Thus was established, not a colony, but a trading post. Homes, in the true sense, were not built. This trading post was perhaps at times deserted. But it was certainly the first settlement of its kind in the whole middle or lower Mississippi Valley. This was 1686, a few years after the settlement of Pennsylvania by William Penn.

After La Salle's death, Joutel and six companions started to walk the long distance through swamps and forests to Canada. After a toilsome journey, they finally came to the south bank of the Arkansas River, and were surprised and overjoyed to see a small building on the other side, on the top of which was a cross. They found only two Frenchmen at the post, as the others had gone to Canada. These refugees did not tell of the death of La Salle, and continued their long walk to Canada.

After Tonty finally learned of La Salle's death and the plight of his followers in Texas, he made a most heroic effort to reach them. But he was forced to give up the attempt because of the desertion of his followers. On his return, he, too, came to the Arkansas post, almost dead with malaria. He found a few Frenchmen there who helped him through his sickness.[6]

In 1699, Tonty, wishing to aid the people at the Arkansas trading post still more, made a grant of several acres of land to establish a church, and for three years supported a missionary priest there, who was to teach the natives agriculture as well as Christianity. Some writers call Tonty the Father of Arkansas. History has never given him full credit for what he did.

About this time occurred a very significant visit to the Arkansas Post. Tonty, in 1686, had left his small garrison of ten men in charge of Jean Couture, who later gained some importance as a trader and explorer. In 1693 Couture deserted the French and went to the English on the

6. Weston Arthur Goodspeed: *The Provinces and the States*, I, 108-10; Thwaites, 70.

Atlantic Coast. During 1699-1700 he led a band of English traders down the Tennessee, the Ohio, and the Mississippi rivers and up to the Arkansas trading post. His purpose was to open a line of trade from the Arkansas country east to the Carolina coast.

Until his death Tonty continued his unselfish, heroic efforts to secure the colonization and the holding of the Mississippi Valley. He gave his support to others in this great work as loyally as he had given it to La Salle. He died at the newly established Mobile settlement in 1704.

As we know, after De Soto, Spain did nothing to explore further or to hold the Mississippi Valley. And the French came into the St. Lawrence in 1534, and laid claim to the country, but this was 138 years before they even knew the location of the source or mouth of the Mississippi. They settled Quebec in 1608, but it was three-quarters of a century before any colony or trading post was established in the middle or the lower part of the great valley, as Tonty established the trading post on the Arkansas in 1686. And the final disposition of the country was to be decided, not by European monarchs and diplomats, who would use it as a pawn in furthering political schemes, or as a place to establish trading posts to enrich certain favorites, but by colonists, who came to the New World to establish homes, to secure economic well-being, political and religious liberty. When the weak trading post on the Arkansas was established, the English had planted homes, villages and towns all the way from South Carolina to Maine, and had laid claim to all the land west to the "South Seas."

Such men as Marquette, Frontenac, Tonty, La Salle and Colbert had a vision of the great Mississippi Valley settled with happy, prosperous French peasants. And to carry the work further came D'Iberville, a native Canadian, a bold soldier and sea fighter. He went to France and repeated the old story of the strategic importance of the Mississippi Valley, and what it would mean to France to occupy and hold it. He, too, secured listeners, and obtained from the king four vessels, soldiers, colonists, and supplies. In 1699, he started for the Mississippi, and without serious difficulty, established a fort and a settlement at Biloxi, on the Gulf Coast near the Mississippi. Leaving his vessels there in a safe harbor, he started west in canoes and rowboats and soon found the Mississippi River. About 160 miles up the river he met the chief of an Indian village all dressed up to receive him. The chieftain wore an old blue serge coat that had been given him years before by the generous Tonty.

D'Iberville did not ascend the Mississippi as far as the trading post on the Arkansas. He wanted to find a suitable elevated place for a settlement on the lower Mississippi. A settlement there would be useful in holding the country against the Spanish or the English. Spain was now shaking off her lethargy and indifference concerning settlements along

the Gulf and lower Mississippi Valley, and in the year before D'Iberville started for France had sent ships to fortify the places on the coast that the French would probably attempt to occupy.

The French, too, met an English war vessel on the Mississippi. The English were also seeking a place for a colony. But the low, water-covered, mosquito-ridden coast did not appear inviting, and they readily left when the French rather nervously bolstered up courage to tell them that the whole country was claimed by France. Later, one of D'Iberville's men ran across an English trader at the mouth of the Arkansas. Falling sick of fever, D'Iberville soon left his colony and forts on the Gulf Coast and died in Cuba in 1706.

CHAPTER III.

ARKANSAS UNDER THE OLD FRENCH REGIMÉ, 1700-63.

During this time, 1700 to 1763, several governors had charge of the settlements and posts in Louisiana, which included all the Mississippi Valley south of the Illinois country. The settlers, as a rule, did not prosper; malaria and yellow fever killed many of them, and they spent too much time hunting mines, pearls, buffalo wool (!), hides and furs. Some of the Governors were very corrupt and inefficient. Nothing was done to settle the interior of the country and Tonty's post on the Arkansas was neglected.

The first attention the Arkansas region received was in 1712. Louis XIV, having become wearied with the heavy expenditures necessary for the government of Louisiana, granted to Antoine Crozat, a wealthy French merchant, a monopoly of the granting of land, mines, and trade for a period of fifteen years.[1] This was done through La Motte Cadillac; the governor and Cadillac joined Crozat in the deal. In 1715 Cadillac received some samples of lead and silver ore from southeastern Missouri, so he decided to visit that country. He passed through the Arkansas Indian villages and the Arkansas trading post. The post might have been deserted at the time. There were then probably not over thirty or forty families in the whole Louisiana territory. Cadillac's party discovered a lead mine on the headwaters of the St. Francis River, but no gold or silver was found, and he considered the expedition a failure.

Crozat himself never came to Louisiana. He was only interested in it as a money making proposition. No valuable minerals were found, and he made no advantageous trade agreements with the Spaniards. The Chickasaw Indians, possibly stirred up by English traders, gave trouble. The French traders and hunters were displeased because of the low price Crozat paid for hides and furs. Every trader had to secure a license from him. He punished severely those who violated this regulation. Cadillac, himself, wrote: "This colony is a monster without head or tail. . . . Has it not been asserted that there are mines in Arkansas and elsewhere? It is a deliberate error. Has not a set of novel writers published that this is a paradise? . . . I never saw anything so worthless. . . . I do not believe that there is in the universe another such government." Crozat, like King Louis XIV, found Louisiana too expensive, and surrendered his charter in 1717.

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1. Ogg: *Opening the Mississippi*, 203.

The next person to take the Louisiana white elephant was the notorious John Law, a native Scotchman, then in France; a refugee, a gambler, but withal, a shrewd, energetic man. He knew a great deal, or thought he did, about banking and big business.

In 1717 John Law organized the Western Company to exploit the resources of Louisiana. King Louis gave the company a charter; granting to it the exclusive right of land grants, coasts, islands, and harbors; the sole regulation of all trade and prices; the power to appoint and dismiss officials, and to levy and collect taxes and customs. It received all equipment, warehouses, supplies, and arms owned or held by either Crozat or France in Louisiana. The company was required to settle 6,000 colonists and 3,000 slaves within the territory during a period of twenty-five years. The Indians were to be instructed.

False reports of the riches and resources of Louisiana were broadcast over France in order to rush the sale of shares in the company. Louisiana gold was shown on the streets of Paris. New Orleans was represented as a beautiful and flourishing city.

Law and his company certainly gave Louisiana and the Arkansas section a vigorous boost. Many thrifty, industrious settlers and slaves were brought. But some of the emigrants were kidnapped; some were "runaway creditors," "miserable wretches," "vagabonds," and "fallen women." In all, over 7,000 settlers and 600 negroes in forty-three boatloads came to Louisiana. Trade and agriculture grew. In 1718, New Orleans was made the capital of the province.[2]

Law himself had believed in the scheme. He secured a beautiful, fertile tract of land, twelve miles square on the left side of the Arkansas River and above Arkansas Post. It included some Indian villages and fields. For this grant Law was required to settle 1,500 people on the land and to keep some soldiers there to protect the colony.

Directors were at once sent out with one hundred men in five small boats to make preparations for the coming of this colony. A great store house for supplies was built. In it were to be stored the provisions and tools to be sold to the settlers. Cabins for the colonists were built. These preparations were no doubt very strange proceedings to the few roving hunters and Indians about Arkansas Post.

Some slaves were purchased for this colony and trained workers and laborers, mostly from the Germanies, were sent over. It is said that Law planned to send at least 9,000 Germans from the Palatinate on the Rhine. In the fall of 1720, 250 settlers came and the next spring more arrived. Some historians say that he sent, in all, 700 German families, and spent $300,000 of his own money on the project.[3] Many of these people died on

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2. Ogg, 210-12.
3. Bancroft: *History of United States*, II, 354.

the way, and were dropped into the sea, or covered with sand on the banks of the Mississippi River.

The rest of the story is best told by Father Poisson, in an account written at Arkansas Post in 1726: "The French settlement on the Arkansas would have been an important one had Monsieur Law continued four or five years. His grant was on a boundless prairie, the entrance of which is two gunshots from the house in which I am . . . . His intention was to found a city here, to establish manufactures, to have a number of vessels and troops, and to found a duchy. The property he sent into the country amounted to more than 1,500,000 livres. . . . He meant to arm and equip two hundred cavalrymen. . . . This was not a bad beginning for the first year, but Monsieur Law was disgraced; of the three or four thousand Germans who had already left their country, a large number died in the east; nearly all on landing in the country; the others were recalled. The Company of the Indies took back the grant and shortly afterward abandoned it; the entire enterprise has therefore fallen to pieces. About thirty Frenchmen have remained here; only the excellence of the soil and climate has kept them, for in other respects they have received no assistance. My arrival here has pleased them, for they now think that the Company of the Indies had no intention of abandoning this district . . . in as much as they had sent a missionary here. I cannot tell you in what great joy the people received me. I found them in great need of all things."[3a]

Law had become bankrupt and left France the latter part of 1720. Storehouses, cabins, and homes about Arkansas Post were soon deserted. Some of the settlers went to New Orleans, expecting, perhaps, to return to Europe. Others established a German settlement on the Mississippi near New Orleans. In 1722 one visitor said that only forty-seven persons remained at the Post, and that in 1723 it was entirely abandoned. But as we have seen, Father Poisson said that there were about thirty people there in 1726.

After the downfall of Law, the Western Company did not want to lose all that he had accomplished, so a commandant, or director, was appointed for Arkansas Post at a salary of about $400. One of his duties was to try to secure colonists for the settlement there. A few soldiers from New Orleans were also stationed at the place for many years, and it was continued as a trading post. A number of boat-loads of supplies and products now passed yearly between the Illinois country and lower Louisiana. Robber bands, composed of whites and Indians, who preyed upon this trade, became very troublesome about the mouth of the Arkansas River. So a small fort and storehouse for supplies were built there, and was probably garrisoned in connection with Arkansas Post. This

3a. Goodspeed, *op. cit.*, 190-91.

fort also served as a defense against the Chickasaws. These Indians fiercely attacked it in 1748, but they were driven away. A fort, or rendezvous, was built later at or near the mouth of the St. Francis River, but it was soon abandoned.[4]

The Western Company, after the fall of Law, sent out several exploring expeditions. One was that of La Harpe in 1721, who was selected to explore the Arkansas. It was now nearly two hundred years after De Soto. Bienville, the brother of D'Iberville, was acting governor at New Orleans. He ordered La Harpe to take sixteen soldiers, to start from Arkansas Post, and to ascend to the headwaters of the Arkansas. He was to learn the quality of the land, about the Indian tribes, and mines (if any); keep a journal; note the navigability of the stream; and ascertain whether or not the Spaniards had any settlements in the region. He left Arkansas Post March 10, and proceeded up the Arkansas River till April 17. The explorers were impressed by the "big rock" near the present city of Little Rock. They saw many wild animals in a very beautiful country. Sickness of La Harpe's men compelled him to abandon the expedition. He failed to secure all the information Bienville wanted. Some writers think he went as far as old Fort Gibson, but he had only reached the Big Rock by April 9, and he started back soon after this date.

La Harpe was also instructed to repair the stockade at the Post of Arkansas. He did this on his return, and left Lieutenant de Boulage there. A permanent garrison was now probably kept at the place.

The effort to govern Louisiana through companies proved a failure. The monopolies granted them were very burdensome to the people. The Chickasaw and Natchez Indians on the banks of the Mississippi were troublesome. Burdensome crop regulations, trade restrictions, some dissolute, worthless settlers and many inefficient officials, all formed a combination of things that made such company rule impossible. One writer said in 1724: "There is graft and miscarriage of justice . . . the army is without discipline . . . the people are not protected . . . murderers and thieves go unpunished. . . . They (the people) are a disgrace to France . . . without religion . . . without justice . . . without order."[5]

After Law's failure, the Western Company directed affairs in Louisiana through a Supreme Council, with a governor at New Orleans as chief director. After the company gave up its charter to the king in 1731, the governor and council were continued. The Louisiana Territory was divided into nine judicial districts, and Arkansas was made the eighth. Each district had a military commander and a judge.

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4. Thwaites: *France in America*, 208-12.
5. Ogg, 228.

During Vaudreuil's governorship, 1743-53, the commandant at Arkansas went to New Orleans and during his absence left a corporal in charge. This corporal and his men soon stole all they could carry away and left the country.[6]

Of the number of governors appointed for Louisiana, some were good, more were indifferent, and a few were bad. These governors, as a rule, had power to make various regulations and laws. In 1722 Bienville issued the famous Black Code, a curious combination of the humane and the brutal in law making. For instance, for the first offence of running away, the slave's ears were to be cut off, and one shoulder branded; for the second, he was to be hamstrung and the other shoulder branded; for the third, he was to be put to death. The slave was also to be executed for stealing, or for striking his master, or his master's children, hard enough to raise a bruise. They could not bear arms or serve as witnesses against their masters. On the other hand, slaves were not to be forced by their masters to marry; the families could not be divided in sales; they were to be fed and clothed, and given religious instruction.[7] A royal edict in 1724 fixed the death penalty for all persons who maimed or killed a horse or horned animal. In 1728 a tax of one cent per acre was levied on all land held. One law provided that if a man committed suicide, a trial was to be held over his dead body, and if a verdict of suicide was rendered, his body was sentenced to lie unburied and rot. It is not known what laws (if any) were in operation at Arkansas Post from 1685-1700 under the old Canadian regimé. But after 1700 the laws for Louisiana, such as royal edicts, edicts of the governors, and general laws of France, when applicable, were in force there.

During all this time the people at the Post were mostly hunters and trappers. A few women and some priests came. The men often married Indian women. The people took up Indian manners and customs; they dressed like them, and lived like them in many ways. They engaged in no regular industry, except hunting. They did little farming. With a few trinkets, cloth, hatchets, powder and guns, they often made long hunting and trading excursions up the White and Arkansas rivers. A few scattered settlements of French and half-breeds were made on these streams. When enough furs, hides, buffalo robes and bear oil were gathered at Arkansas Post, they were sent in boats to New Orleans. Merchants or traders were located at Arkansas Post to engaged in buying and shipping.

Arkansas Post never grew after Law's colony in 1720. In 1744 it was supposed to contain twelve male inhabitants and ten slaves. One hundred years after its settlement (1785) it had a population of only 196.

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6. M. W. Benjamin, Publications Arkansas Historical Association, II, 340.
7. *Ibid.*, 342-45.

Settlers and traders in the Arkansas country were never murdered by the Indians like the English were in Kentucky and Tennessee. Occasionally some lonely hunter or settler was killed; as for instance, the Osage Indians killed five trappers on the Arkansas River in 1720. The native Indians were of a more peaceful disposition than the Cherokees and Choctaws who lived east of the Mississippi River. They were few in number, and their hunting grounds were very slowly taken by settlements.

Louisiana Territory, on the whole, did grow, however. Agricultural industry became more important; sugar cane was introduced in 1751, and soon became profitable. More slaves were brought into the country and were used in the cultivation of cotton, tobacco, rice, and sugar cane. In 1763, 13,000 people were in Louisiana, and perhaps 3,000 at New Orleans.[8]

Louis XV is said to have had a contempt for Louisiana. Some Indians, especially the Chickasaws, were very troublesome and hard to control. The English were now crossing the Appalachian mountains, securing trade, and inciting Indians against the French. The expenses of its government and protection continued to rise; from $60,000 in 1742 to $92,000 in 1747 and $172,000 in 1753. Spain, an ally of France, had become involved in the Seven Years War, and after the defeat of the latter in 1763, Spain was given all Louisiana west of the Mississippi, with the city of New Orleans. This would partly recompense her for the recent loss of Florida. Then, too, this exchange might prevent the English from capturing the whole territory. So in 1763, Louis XV turned the Great White Elephant over to Spain.

8. Thwaites, 282-83.

CHAPTER IV.

ARKANSAS UNDER THE RULE OF SPAIN.

Louisiana, under Spain, included the country west of the Mississippi, and New Orleans. Arkansas was a part of this territory. Charles III, King of Spain at the time of its transfer, was a man of character and intelligence. He directed the first Spanish governor of Louisiana, D'Ulloa, to make few changes in the administration of the government, and Louisiana was to be independent of the Ministry of the Indies (the governing body of the colonies) and of certain regulations in operation in other colonial possessions.

As a rule, Spain sent very able men to govern Louisiana, such as O'Reilly, Galvez, and Carondelet, but the first governor, D'Ulloa, was not a good selection. He lacked leadership and tact at a time when many of the French inhabitants were heart-broken and angry because of the transfer to Spain. They felt that they had been given away without their consent or knowledge. Some favored ones under the old government were keenly disappointed. The rich and influential merchants were displeased because of the Spanish trade laws. Accordingly a small rebellion broke out in New Orleans against the new governor and Spanish rule. The matters in controversy were not of very general interest, and the uprising was easily suppressed by the governor, O'Reilly, the successor of D'Ulloa, with troops from the West Indies. He hanged a few of the leaders, and rather unjustly secured the title of "Cruel O'Reilly."[1]

After this rebellion more changes were made in the government Many laws in force in other Spanish colonies were now put into effect in Louisiana. Even Bienville's Black Code was reënacted. The Spanish Cabildo took the place of the French Supreme Council. The governor had civil and military powers, and was given a secretary, as well as an attorney for a legal adviser. The intendant had charge of commercial matters and foreign affairs. He, too, had a secretary and a legal adviser. There were also comptrollers, surveyors, official interpreters, port captains, and notaries. A provincial alcalde supervised parishes outside New Orleans. And upper Louisiana, including Arkansas, had a lieutenant-governor, and all the local political divisions there had their officials.

Appeals in important legal cases could be taken to the captain-general in Cuba; then, perhaps to the royal audencia in Santo Domingo, and from there possibly to the royal council of the Indies in Spain. Many of the political offices could be bought, and there were corruption and inef-

1. Chambers, N. E.: *Mississippi Valley Beginnings, etc.*, 131; Ogg, 324.

ficiency in the conduct of the government, notwithstanding the many precautions taken by the home government to prevent it. For instance, the Spanish treasury was generally kept in a chest having three locks, and the key for each lock was held by a different official. The governors spent much time intriguing with the Indians against the English and Americans, and with the American settlers west of the Alleghanies.

The lieutenant-governor of upper Louisiana, with his headquarters at St. Louis (Missouri), had charge of the revenue, financial matters, Indian affairs, the selection of subordinate officials, and was head of the court system. The court at St. Louis gained a reputation of being rather arbitrary in its actions, but it was an efficient one.[2]

Each parish or local district had its commandants, and they were important personages in their districts. Arkansas Post had one. This official was to secure the observance of the laws, arrest criminals and execute all warrants drawn up by the government. He tried all cases involving twenty dollars or less. He executed the Black Code, the detailed and severe regulations concerning slavery. He was to prevent settlement on the public lands without licenses.[3]

One of the most important things these commandants did, and one they seemed to enjoy doing, was making out land warrants, and giving the owners of these possession of the property.

Another duty of the commandant was the supervision of trade and trade regulations in his district. For a short time following 1769 at Arkansas Post he was authorized to prevent trade with the English, although the English gave better prices than could be secured elsewhere. This was partly due to the fact that Spain levied oppressive export duties. If a person engaged in this forbidden trade was caught, his goods were confiscated and he was probably sent to New Orleans for trial. All traders were licensed by the commandant and he was authorized to see that the Indians received a fair price for their hides and furs. It is no puzzle why these commandants at Arkansas Post were prominent men there, and often married into the wealthiest families. They often secured much property for themselves, such as large tracts of land. And they generally remained in Arkansas after their term of office expired.

Villiers was probably the first of these, followed by Chalmette in 1780, who married the daughter of the wealthy old French trader and land owner, Lewismore Vaugine, who lived on the Arkansas River, a few miles above Arkansas Post. Don Joseph Valliere, the commandant from 1786 to 1790, married another one of his daughters. From 1790 to 1801 this official was the chivalrous and gallant Don Carlos Villemont, who

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2. Chambers, 100-09; Goodspeed, 272, 278, 288.
3. Goodspeed, 260-72.

also married at Arkansas Post, and continued to live there until 1823. The last one was Francis Caso, commandant from 1802 to 1803.[4]

The Spanish system of land grants allowed these local authorities to issue land warrants, to order surveys for applicants, and to give possession; a practice which led to many abuses. The surveyors, it is said, sometimes made their surveys and plots without ever seeing the land. The owner could then mark his boundaries to suit himself. The warrants and surveys were supposed to be sent to the Spanish governor for his signature, but his signature was sometimes forged. Even without his final approval, the applicant could secure possession of the property and pass it to his heirs. As a rule, each head of a household was allowed 800 arpents of land for himself, and 50 arpents additional for each child or slave. Very large grants could be made by the king only.

After the purchase of Louisiana by the United States, not over one-fourth of the land was held under a complete title. Just as soon as it became known that Spain was to give up the possession of Louisiana, the Spanish officials from intendant or governor to commandant seemed very willing to grant the public lands to claimants, to themselves, relatives and friends. This was especially true in all upper Louisiana. Many people were fearful that when the United States took possession, that their land claims would not be allowed.

March 26, 1804, Congress passed an act invalidating all Spanish land claims originating after the cession of Louisiana to the United States. Then later a commission was created to adjudicate all these claims. The President, Thomas Jefferson, appointed J. B. C. Lucas, Clement B. Penrose, two old French settlers, and Edward Bates, commissioners. This commission was very lenient and all claims were allowed unless it was very evident that fraud had been committed; and about 680 acres was the usual amount allowed. Those whose claims were rejected were permitted to appeal to the territorial courts, but very few who made these appeals secured anything.[5]

William Russell, of St. Louis, at that time the most noted land speculator in upper Louisiana, in 1812 presented 123 different Spanish land claims that he had bought from the original owners, and he was allowed twenty-three. Later Edward Bates, who was appointed in 1812 recorder of land titles in Missouri, confirmed many of these old Spanish claims, provided the applicants could show that they had occupied the land for a number of years.[6]

Some of the most important of these old claims are well known. As for instance, Valliere, the above mentioned commandant at Arkansas

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4. Josiah Shinn: *Pioneers and Makers of Arkansas History*, 24, 25, 44, 79; Bolton and Marshall: *Colonization of North America*, 398.
5. *American State Papers, Public Lands*, VI, 639-42.
6. Herndon: *Centennial History of Arkansas*, I, 128.

Post, secured an immense tract of land in the uninhabited northern part of the State, "On White River, extending from the rivers Norte Grand and Cibalos to the source of said White River, and ten leagues in depth." He had secured his grant and surveys, and later his heirs claimed it was all legal and genuine. This grant was invalidated by the courts in 1847 on the grounds that the necessary settlements and occupation had not been made according to the usual requirements in such Spanish grants.[7]

Jean Filhiol, the commandant of the Post at Ouachita in 1803, forged Governor Miro's signature to a grant made to himself. It included the Hot Springs. The courts invalidated this claim in 1829 as clearly a fraudulent claim. The Winter claim is probably the most noted of all. In 1797 Elisha, Gabriel, and William Winter, William Russell, Joseph Stillwell and others (ten in all) secured over 1,200,000 acres of land, selected on Arkansas River and near Arkansas Post. The grant was claimed to have been made by Governor Carondelet in 1797. Don Carlos Villemont and others were supposed to have made surveys. But the original surveys and grants were not produced. The United States commissioners in 1808 and again in 1813 decided that no surveys had been made. The number of acres or arpents called for in the claimed surveys and grants did not tally. While different Spanish governors announced various changes in the requirements for land grants, such as size of the grant, conditions of occupancy and of cultivation, it was always true that in cases of very large requests for land, such as this one was, only the king himself could make the grants. So, if Governor Carondelet had made the grant, he had exceeded his authority. This grant was supposed to have been for the encouragement of the production of wheat, hemp, and flax. The Winters had actually moved on their land, and had made improvements. They appealed to the land commissioners, to Congress several times, and finally in 1848 to the courts, but everywhere the claims were declared null and void on the ground that forms and procedure required had not been followed.[8]

In 1829 another torrent of these old claims appeared. Again a special court was appointed, consisting of Thomas P. Eskridge and Benjamin Johnson. A large number of these grants had been made and signatures forged in New Orleans. Then with a few witnesses, they were brought to Arkansas and distributed among the most influential men of the State. Practically all the prominent lawyers secured some. The United States attorney at Little Rock found it impossible to secure a competent lawyer to assist him in the prosecution of the frauds, because the fraudulent grants had been so widely distributed among them. He finally found an able helper in Richard Searcy of Batesville. The courts at first seemed

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7. Hempstead: *Historical Review of Arkansas,* I, 23-24.
8. *American State Papers, Public Lands,* VI, 939-42; III, 289. Case No. 17, 895, Winter et al. v. U. S., Federal Cases, Circuit and District Courts, 30, p. 350.

friendly to the claimants; and many spurious claims were granted. The United States Attorney-General at Washington accused the United States Attorney at Little Rock of not vigorously prosecuting the cases against these men. But he appears to have tried to do his duty. Later this court refused to validate many illegal claims.

Several new settlements were made in Arkansas during Spanish rule, and its population steadily grew. There were several causes of this growth. Some French inhabitants moved across the Mississippi River, when in 1763 the eastern side of it was given to England. The Missouri country, and not Arkansas, received almost all of these people. A few Tories came to the west during the American Revolution. Also at this time Spain announced a very liberal land policy, and in 1796 families were offered farms for a little more than the cost of surveys. A farm of about 500 arpents could be secured for about forty-one dollars. Some Spanish officials thought that if the country could secure a loyal population it could never be taken from Spain. About this time permission to secure land and make settlements could be obtained also at the newly established Camp Esperanza on the Mississippi River above the mouth of the St. Francis.

In 1766 a settlement was made above the mouth of White River at a place which afterwards became widely known as Montgomery's Landing. Its first settler, D'Armand, became a rich merchant and fur trader. From 1790 to about 1800 many choice places, rich river bottoms, were chosen for settlements. Some of the settlers had English names, as the Winters, Stillwells, and Philipses. John Baptiste Janis and a few other Frenchmen prior to 1800 settled far up in the country at Clover Bend on Black River, in Lawrence County. The Graviers are said to have been on Black River by 1793. By 1798 Dardenne and Greenlick had settled at Dardanelle on the Arkansas nearly a hundred miles above Little Rock. By 1763 John B. Imbau is said to have had a cabin at Little Rock. In 1793 John Friend lived at Belle Point on White River. Moses Bivinett and David Mooney settled on the St. Francis about 1797. Near the same time William Patterson and Sylvanus Philips formed a settlement on the Mississippi about where Helena now stands, then called Little Prairie. Perhaps several settlements were made of which there are no records. So under Spain the settlement of Arkansas really began outside Arkansas Post. In 1785 by a census ordered by Governor Miro, the territory had a population of 196, and in 1799 a census showed 386. She was now receiving real settlers—home builders—not the transient hunters and soldiers. Spain, too, was quite willing to aid in church matters, and church schools, but of course absolutely nothing was done for public education. The young folks grew up without learning.[9]

9. Goodspeed, 278.



BROAD STREET, TEXARKANA, 1874



BROAD STREET, TEXARKANA, 1926

Trade grew under the control of Spain, but it would have grown much more, if she had not levied many burdensome duties. O'Reilly, in 1769, forbade all trade with the English and ordered all goods to be carried in Spanish ships. Later this English trade, or smuggling, was winked at. Then in 1785 Miro allowed unrestricted trade with the English. These trade regulations continually varied and this greatly handicapped business. Arkansas Post became the center of fur trade with the Arkansas Indians, but the trade of this post with New Orleans probably was not over $3,000 in 1785.

Athanese de Mézières, who did much to establish Spanish rule in the province, complained of a band of outlaws on the Arkansas River. According to him one Brindamur, who was "of gigantic frame and extraordinary strength, . . . whose sole employment was to roam the forests and entertain himself in hunting," ran off with another man's wife and, on the death of her husband from grief, went to Arkansas Post and there married her and returned to his haunts up the river and made himself "king of the vagabonds and highwaymen."[10]

Neither did Spain carry out any definite policy concerning the trade on the Mississippi by the people of the new American nation, the United States, and her rapidly growing population west of the Appalachians. The lack of transportation facilities across these mountains made the use of the Mississippi as an outlet for this western trade absolutely necessary. Spain had complete control of the Mississippi below the thirty-first degree north latitude. After much controversy and much ill will had developed between the two countries, Spain in 1795 promised the people of the United States the right to use the Mississippi for shipping and to have a freight depot, or free deposit, at New Orleans. This trade now grew rapidly; boats and barges sent loads of flour, beef, tobacco, hides, grain, and cotton to New Orleans, and from there to all parts of the world.

Yet, Spanish Louisiana was still the Great White Elephant, a region of possibilities, but held as a loss instead of an asset. And now (about 1800) the great Napoleon Bonaparte had secured control of the French government. He wanted to make amends, he said, for the foolish diplomacy that had given Louisiana away, and he had dreams of a great colonial empire in the New World. He would bring back home the unappreciated child of the Old Regimé, and bring to realization the dreams of La Salle and many others.

The rulers of Spain gave all of Louisiana to France for the mere promise of the little two-by-four kingdom of Etruria as a gift for the unworthy son-in-law of the Spanish king. Napoleon agreed never to alienate Louisiana and to keep it as a "wall of brass" for a protection to

10. H. E. Bolton (Editor): *Athanese de Mézières and the Louisiana-Texas Frontier*, 1768-80, I, 160, 166-69.

the other Spanish possessions to the west and southwest. This treaty was made at San Il Defonso, October 1, 1800.

The terms of the treaty were kept secret for some time, and it was nearly a year before rumors of it reached the United States. Jefferson was at that time President of the United States, and he and others were greatly disturbed when they heard the news. The Americans had fully expected to use the Mississippi for an outlet for its western trade if weak Spain continued in control of it, but what would happen if powerful France, governed by the masterful Napoleon, with his dreams of a colonial empire, kept control?

Jefferson had definitely learned of Louisiana's transfer to France, in May, 1801. Suddenly, in October, 1802, the right of deposit at New Orleans given the Americans was withdrawn. This act greatly alarmed the uneasy Jefferson, and angered the westerners. They talked of forcibly seizing New Orleans, and members of Congress openly said that it must be either fought for or bought.

On January 3, 1803, Congress voted $2,000,000 to bear the expenses of an adjustment of certain foreign matters. Jefferson appointed James Monroe to assist Robert Livingston, American minister to France, in trying to arrange for the purchase of New Orleans, and a strip of land about 600 miles long and from thirty to fifty miles in width, which would give us control of the west bank of the river all the way to the Gulf. Jefferson said the destinies of our country hung on the negotiations. He instructed Monroe to offer as much as $10,000,000 for the Floridas and New Orleans, and to promise American citizenship to the inhabitants, and trading rights to France for ten years. And, if it proved absolutely necessary, to guarantee the west bank of the Mississippi to France. If this sale was not secured, efforts were to be made to obtain land for only a post and the right of deposit.[11] The French minister at Washington was shrewdly informed that if Napoleon would not agree to some satisfactory arrangement of the matter, the United States must come to very friendly terms with England.

James Madison and some others cared not one whit for the territory beyond the Mississippi, and said it could never be of any value to the United States. It was still a great uninhabited wilderness, except in a few places.

For weeks Robert Livingston played a diplomatic game of hide-and-seek with the astute, slippery French minister, Talleyrand, trying to buy New Orleans and West Florida, the stretch of Florida that extended westward along the Gulf. James Monroe had hardly reached France when Napoleon suddenly announced that he had decided to sell the whole of Louisiana to the United States. He thought that we ought to want it all.

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11. *American State Papers, Foreign Relations,* II, 540-41.

The following explanation is commonly given as to why Napoleon had changed his plans. Le Clerc, his brother-in-law, had failed miserably and lost his life in trying to conquer Santo Domingo, which Napoleon expected to use as a sort of stepping stone to Louisiana. War was about to be renewed with Great Britain and he knew that he could not hold Louisiana after the war started. Another reason was the need of money to conduct the war.

April 11, 1803, Talleyrand proposed to sell all of Louisiana. Livingston, much surprised, said that the United States might, in addition to West Florida and New Orleans, purchase all of Louisiana north of the Arkansas River. After a few days, and when Livingston had somewhat got over his surprise, he and Barbé Marbois, who had taken Talleyrand's place in the negotiations, tried to agree on the price. Livingston offered at first about $4,000,000, and Marbois asked about $23,000,000. They finally agreed on $15,000,000. Marbois did some good bargaining, as Napoleon had said that he would be satisfied with less than that amount. Monroe and Livingston agreed to pay certain American claims against France to the amount of nearly $3,750,000, which was to be deducted from the purchase price, leaving $11,250,000 to be paid to France.

Within a short time after the receipt of Jefferson's message announcing the purchase, the Senate ratified the treaty and the House, after considerable wrangling and hot debate over the right to be consulted in treaties involving money payments, appropriated the necessary funds. The President was given authority to appoint representatives to receive the territory, and to organize a temporary government for it. Six New England senators voted against the purchase of Louisiana.

Napoleon said, "I have given England a maritime rival that will sooner or later humble her pride." After Livingston and Monroe had studied their maps, and caught the old vision of La Salle of the great valley filled with happy, prosperous people, they warmly grasped each other's hands, and considered this the greatest event of their lives. Loyal Republicans and enthusiastic westerners saw, or thought they saw, the wonderful possibilities of the new territory, while dissatisfied Federalists and pessimistic easterners believed, or pretended they did, that our Constitution had been violated; a nation (Spain) had been wronged, which might cause a war; that our country had been so enlarged that it would never hold together; and that millions of dollars had been literally thrown away buying unhealthy swamp lands and barren, worthless plains.[12]

Securing of Louisiana was, indeed, a wonderful transaction, although made by American commissioners who were without authority to buy it. It had occurred during the term of a President whose theories and con-

12. Goodspeed, II, 232-65.

struction of the Constitution did not authorize the purchasing of foreign territory and the promising of its people American citizenship. It was sold by a man who, Spain claimed, never rightfully owned it, as he had not fulfilled the conditions of its cession to him. Then even if he did have a right of ownership, he had promised to keep it. Then, too, the Constitution of France, which Napoleon pretended to recognize, forbade the chief executive to sell territory of his own free will. For these reasons some historians have said that we were receiving stolen goods. The small voice of Jefferson's conscientious doubts on his constitutional rights was soon drowned by the shouts of an approving people. But he really had not violated the Constitution, for that gave him the right to negotiate treaties and treaties commonly dealt with the transfer of territory.

It was indeed a great event, for both Arkansas and the whole United States. No one knew the boundaries, or the resources, or the possibilities of the newly acquired territory. In addition to Arkansas, it included the area of the whole or part of what is now thirteen other States at a price of about three cents an acre.

Louisiana, too, was sold just at the time when it was changing its white elephant aspects, and soon began to grow rapidly in population, trade, and industry. There were then about 50,000 white people in the territory and many thousand slaves. From 1795, the production of sugar cane was put on a paying basis, and cotton growing was profitable. In 1802 the value of the exported cotton alone was $1,344,000; and the exports of sugar, molasses, hides, lumber, horses, cattle, and grain made over a million more.

After Napoleon had secured Louisiana from Spain, he waited over two years, till June, 1803, before he directed Pierre Clement Laussat, of New Orleans, to receive the country for France. And this worthy gentleman acted in no haste, and Spain's flag was not hauled down till November 30, 1803. But the loyal French inhabitants saw the tri-color flutter in the breeze only twenty days, and then, with saddened hearts, they saw it again hauled down—many people there had witnessed the same performance in 1763—and the stars and stripes take its place.

Jefferson had appointed W. C. C. Claiborne, Governor of Mississippi Territory, and the later notorious Brigadier-General James Wilkinson, to go to New Orleans and represent the United States on this occasion. The transfer of authority of the upper part of the territory from France to the United States occurred at St. Louis, March 10, 1804. Some time during the spring Arkansas Post and Fort Esperanza were turned over to the United States. At St. Louis the transfer was made to Major Amos Stoddard, of the United States Army. The transfer from Spain to France had occurred only the day before. Major Stoddard wrote that he allowed the French flag to remain up one whole day to satisfy the wishes and sentiments of the old French settlers.

CHAPTER V.

AS A PART OF THE TERRITORY OF LOUISIANA AND OF MISSOURI TERRITORY, 1805-1819.

Article three of the purchase treaty with France provided that the ceded province should be incorporated into the American Union as soon as possible; that its citizens should be given the enjoyment of all the rights and privileges of other citizens of the United States; and that in the meantime they should be protected in the enjoyment of their religion, liberty, and property. Some people opposed to the purchase of Louisiana claimed that it was unconstitutional to provide citizenship for "foreigners" in this manner.

On the day of the acceptance of Louisiana, W. C. C. Claiborne, by direction of President Jefferson, became invested with all the powers and duties hitherto held by the French governor and the intendant. Claiborne issued a wise and conciliatory address to the Louisiana people. He told them that belonging to the United States brought a sure inheritance of freedom and the security of liberty, property, and religion. He assured them that commerce and agriculture would be promoted and that they would be received as brothers by the American people. The new governor was at this time only twenty-eight years of age, a direct descendant of stubborn old William Claiborne, who once defied Lord Baltimore over the possession of Kent Island in Chesapeake Bay. Young Claiborne later became a prominent citizen of Louisiana.

March 26, 1804, Congress divided Louisiana into two parts. The lower part was called the District of Orleans, and all the territory above the 33° north latitude was called the District of Louisiana and placed under the territorial government of Indiana. This parallel of north latitude is the southern boundary line of the present State of Arkansas. Under Spain, this northern portion of Louisiana had a separate government with a lieutenant-governor, but no suffrage was granted the people, and they had no legislative assemblies.

In the Territory of Indiana, the governor, William Henry Harrison, a secretary, and three judges were appointed by the President, and they exercised the legislative, judicial and executive functions of the government. So the people as yet were not given self-government. But the mixed population of French, Spanish and English had, with the exception of some of the English, little or no experience in self-government. The matters requiring the attention of government officials were few, and were mostly concerning trade and Indian affairs.

Harrison appointed Samuel Hammond deputy governor at St. Louis, and commandants were selected for different districts or posts. These men were under the direction of the deputy governor. James B. Many had charge of Arkansas Post. Each district or post had a justice of the peace, sheriff, recorder, assessor, coroner, and probate judge.[1] The laws of the territory of Indiana were, as a rule, used in the courts.

This District of Louisiana attached to Indiana lasted only about a year, as Congress, March, 1805, organized it into the Territory of Louisiana and provided for its government. By this act, the lower portion of the territory or what is now the State of Arkansas and some of the southern part of Missouri, was called the District of New Madrid, and placed under the government of this new Territory of Louisiana.[2]

For this Territory of Louisiana President Jefferson appointed General James Wilkinson governor, and Dr. Joseph Browne, of New York, his secretary. Browne was a brother-in-law of Aaron Burr, and his appointment was doubtless recommended by Burr and Wilkinson. J. B. C. Lucas, John Coburn, and Rufus Easton were appointed judges. The governor of the Territory was authorized to divide the settled areas into political and civil districts. St. Louis was made the capital.[3]

James Wilkinson, the first governor of the Territory, was a very shrewd, intriguing scoundrel. He had served in the Revolutionary War, became a general at the age of twenty, and was involved in the Conway Cabal conspiracy against Washington. He had fought bravely at Saratoga. He went to Kentucky after the close of the Revolution and conducted a mercantile business. He sold his services to Spain, accepted a pension from that country, and was given special trading favors at New Orleans. He took an oath of allegiance to Spain and apparently promised to help that country separate Kentucky and other parts of the west from the United States. But what he really intended to do, or just how much real service he intended to give Spain against the United States, nobody knows. He did give Spain some aid, but he also furnished Jefferson with maps and information about the west and aided Long and Pike at the beginning of their exploring expeditions. He had fought well under Mad Anthony Wayne against the Indians. He succeeded Wayne in command of the army and later thwarted some Spanish intrigues with the Chickasaws. At one time he had the confidence of Washington and Jefferson and they were no mean judges of people and human nature.

As we have seen, Jefferson appointed Wilkinson governor of Louisiana Territory. Wilkinson then gave Aaron Burr a certain amount of help, encouragement, or both, in his conspiracy schemes in the west. Because of this collusion with Burr and some high-handed acts as gov-

1. Herndon: *Centennial History of Arkansas,* I, 135.
2. *United States Statutes at Large,* II, 331-32.
3. Chambers: *Mississippi Valley Beginnings,* 235.

ernor, Jefferson removed him. He later had command of some troops in the southwest and exposed some schemes of Burr, his old friend. Later he so mismanaged a Canadian campaign in the War of 1812 that he was tried by court martial, but was acquitted.

As if there were not enough districts already, the Legislature of the new Territory of Louisiana meeting at St. Louis, June 27, 1806, divided the District of New Madrid, just created the year before. An imaginary line was run west from near the present city of Memphis, and the territory south of the line, which comprises about two-thirds of the present State of Arkansas, was called the "District of Arkansaw." It was probably given this spelling by some one who knew nothing about the old Gallicized Indian name of the country.

After Jefferson removed Wilkinson in 1807, he again appointed one of his special friends, a Virginian, Colonel Meriwether Lewis. He had just made himself famous in the Lewis and Clark expedition. He was born near Jefferson's old home, in 1774, and had been President Jefferson's private secretary from 1801 to 1803.

In 1808 Governor Lewis selected officials for the new "Arkansaw" district. Harold Stillwell was appointed sheriff; Joseph Stillwell, his brother, Francis Vaugine, and Benjamin Foy were appointed judges of the court of common pleas. The Stillwells, prominent in early Arkansas history, claimed large tracts of land above Arkansas Post under old Spanish grants. They came from New Jersey by way of Kentucky. Francis Vaugine belonged to a prominent old French family at Arkansas Post. Benjamin Foy was from Camp Esperanza, opposite Memphis. He settled there in 1794, and was the owner of an old Spanish land grant. Andrew Fagot, an old French resident at Arkansas Post, was justice of the peace for the district. A judge of the probate court, John W. Honey, and a deputy attorney-general, Percy Wallis, were also appointed.[4]

Lewis was firm, business-like in his methods, and knew the Indians and pioneer needs and conditions. He was having a successful administration when, unfortunately, while on his way to Washington, in 1809, he either committed suicide, or was robbed and murdered; probably the latter.

To succeed Lewis, President James Madison, in 1810, appointed General Benjamin A. Howard of Kentucky. He was governor until 1812, when he resigned and served as brigadier-general during the War of 1812. Howard was the last governor of the Territory of Louisiana, for June 4, 1812, Congress changed the name Territory of Louisiana to the Territory of Missouri. The most important of all these positions had been given to men who lived outside the territory and who were political or personal friends of those making the appointments.

4. Shinn: *Pioneers and Makers of Arkansas,* 25, 30, 49, 86, 97. Herndon: *Centennial History of Arkansas,* I, 137.

Jefferson ordered explorations made in the territory of the Louisiana Purchase to obtain information of the geographical and industrial conditions of the country. In 1806 Zebulon Pike led explorations to the west and southwest, and when he was on the headwaters of the Arkansas, he had Lieutenant J. B. Williamson descend that river. He and three companions in two small canoes made the descent in somewhat over two months. Two bands of French hunters were passed; one about Little Rock, and the other near the present Pine Bluff. No settlements were mentioned except the one at Arkansas Post. A few of the tributary streams and some Indian villages were noted. The map made of the country passed through contained very little information. In 1804, Dunbar, a scientist, explored the country of the Ouachita as far as Hot Springs, and made a map of that region.

After the Louisiana Purchase, many immigrants came into the Arkansas region; or rather the coming of settlers, which began under Spanish rule, greatly increased. Settlements now continued to be planted farther and farther up the rivers and creeks on the rich bottom lands and places open to navigation. The early settlers, of course, had been mostly French. Very few Spaniards came. But now the people who came were mostly English, German, and Irish from the older eastern states.

Settlers were now scattered for some distance out from Arkansas Post. The Pyeatts from North Carolina and a number of other families formed, about 1806, the Crystal Hill settlement above Little Rock. About 1803 John Hogan and others formed a settlement at Copperas Creek on the St. Francis. Other people soon settled at various places on the river. On White River, B. H. McFarlane had settled as far up as Poke Bayou (Batesville) probably as early as 1804. Many other people of whom we have no record were now settling on the various streams far up in the wilderness. A Protestant minister, John Carnahan, began preaching tours up Arkansas River in 1811.[5] In 1799 the population of the Arkansas country was probably not over 368, about 500 in 1803, and 1,026 in 1810.[6] Of these, 765 whites and 109 negroes were on the Arkansas, and 159 whites and 29 slaves in the Esperanza, Hopefield, and St. Francis region.

The Missouri Territory, organized 1812, was of the first class, consequently it had a legislative body, consisting of the governor, appointed by the President, a council of nine members, and an elective representative assembly of thirteen. The council served for five years, and each member must own at least 200 acres of land. The representatives served two years and were freeholders. The assembly met annually. The seat of government was at St. Louis.

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5. Shinn: *Pioneers*, 40-48.
6. Hempstead, I, 50.

Before Governor Howard resigned, October, 1812, Missouri Territory was divided into thirteen electoral districts for the election of members of the Legislature. He called for the election of these representatives, and a delegate to Congress. The "District of Arkansas" did not then contain 500 free male inhabitants, and was not allowed a representative in the Territorial Legislature.

The first Territorial Legislature of Missouri, thirteen members, met at St. Louis, December 7, 1812. The elected Assembly nominated eighteen persons, and from this number the President of the United States chose the council of nine. None of the men chosen was from the Arkansas District. But one of the men selected, John Scott, of St. Genevieve, Missouri, later played a prominent part in early Arkansas political history. After the Council was nominated, the lower house of the Legislature adjourned to meet with the council in the first General Assembly of the Territory of Missouri, July 5, 1813.

When this Assembly met, William Howard Clark had been appointed Governor to succeed Howard who had resigned. Clark was a younger brother of George Rogers Clark and was a joint commander in the Lewis-Clark expedition. He was from Kentucky, but was, like Lewis, a native of Virginia. He had been brigadier-general of militia and Indian agent in Missouri. The Indians called him Chief Red Head. He was the governor as long as Arkansas remained a part of Missouri Territory. He became one of Missouri's leading citizens.[7]

The Assembly of 1813 provided for the taking of the census of the free male inhabitants of the territory in order to arrange the basis of representation. It reassembled in December of the same year and created Arkansas County, embracing the whole of the present State of Arkansas except the northeastern section, which was left a part of New Madrid County. The line of division of these two counties ran from Island number 19 in the Mississippi River, southeast to the mouth of the Little Red River, thence up this river, west to the boundary of the Osage Indian Purchase, and thence north with this line. The county seat was Arkansas Post. The judges of Missouri Territory held two terms of court per year at Arkansas Post.

In June, 1814, Governor Clark announced the number of Representatives to be elected from the various counties on the basis of the census just taken. Arkansas County had 827 free white males and so was entitled to one Representative. The members of the Legislature were elected every two years on the first Monday in August, and the Assembly met the first Monday in December following election. Henry Cassidy, a surveyor who lived near the mouth of the St. Francis River, seems to have been the first person ever elected (August 1814) to represent the

7. Hempstead, I, 53-54.

people of Arkansas in a Legislature. He may not have attended the meetings of the following Assembly held at St. Louis till in January, 1815. In the Assembly of December, 1816, John Cummins, of Arkansas County, was a member of the Council.[8]

The laws of the older states were followed by the Legislatures of Missouri or Louisiana Territory in their law making. In 1807 it was provided that divorces by either party could be secured on the grounds of adultery, desertion, lack of procreation, and bigamy.[9] In 1808, over six per cent. interest was forbidden; a person who stole money should be fined treble the amount stolen, and be whipped not exceeding thirty-nine lashes on "his or her" bare back; and men who married a girl under eighteen must secure the consent or her parents, or guardians. In 1814, the unnecessary or wanton cutting of timber on the town common land was forbidden; in 1815, all men between the ages of eighteen and forty-five were subject to militia duty; in 1816, slaves, for any violation of the laws of the Territory, were to be whipped according to the discretion of the court. Any person convicted of forgery or counterfeiting could be bound to labor for a term of seven years, and hired to any suitable person who would pay the fine and costs. The sold-out person could be kept bound with a chain.[10]

Qualifications for voting from 1812 to 1819 were: free white manhood suffrage, with a territorial residence of a short time, and the payment of a county or territorial tax. Ballots were not used, but the record of the votes were kept in a poll book. The delegate to Congress, Territorial Representatives, and the sheriffs and clerks of the counties were elected by popular vote.[11]

After a very bitter struggle in Congress, an enabling act for the admission of Missouri into the Union was finally passed, March 6, 1820. For some time citizens of that State had petitioned for admission with stipulated boundaries that would leave Arkansas without the confines of that State, and without an organized government except the local ones. Plans were at once made for securing a territorial government for Arkansas. Trappers and hunters were indifferent about the matter, criminals and refugees from justice gathered on the outskirts of the settled areas probably opposed it. Those who favored territorial government were the more or less law abiding citizens in the settlements, land speculators, politicians and lawyers, who could secure positions or more work. Many of the politicians and lawyers in Arkansas were angry with Governor Clark for giving practically all the offices to men about St. Louis. Now

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8. Herndon, I, 141-42.
9. Steele and McCampbell: *Laws of Arkansas* (1835), 218.
10. Steele and McCampbell, 311, 173, 394, 130, 198, 196.
11. Joseph T. Robinson: *Publications of Arkansas Historical Association*, III, 166.

Statehood could be looked forward to. This would boost immigration and land values.

Land speculators were always numerous and aggressive in new regions. Of this class, William Russell, of St. Louis, was the leader. He was able, aggressive, and unscrupulous. About 1817, he came to Arkansas Post to direct, or at least help direct, the movement for territorial government for Arkansas. A petition favoring it was circulated in the settled areas. A bill for this purpose was introduced into the House of Representatives by John Scott, author of the measure, who was at that time delegate to Congress from the Missouri Territory. The boundaries of the territory sought lay between 33° and 36° 30′ north latitude; except the "jog" in the northern boundary line between the Mississippi and the St. Francis rivers. This measure was soon passed and was approved by President James Monroe, March 2, 1819.

It provided for a governor to reside in the Territory and to serve a term of three years. He had command of the militia, appointed certain officials, granted pardons, and managed Indian affairs. The legislative powers were vested in the governor, the three territorial judges, and an elective Assembly. The judiciary consisted of three superior court judges, appointed by the President, and such inferior courts as the territorial Assembly might organize. The "Post of Arkansaw on Arkansaw River" was named as the seat of government until otherwise directed by the legislative department. It is very probable that the plan of moving the capital to its present location at Little Rock was already on foot. William Russell was already at Arkansas Post, quite willing to assist in these matters.

CHAPTER VI.

EARLY TERRITORIAL GOVERNMENT.

Immediately following the passage of the act organizing the Territory of Arkansas, President James Monroe appointed General James Miller, of New Hampshire, governor, and Robert Crittenden, of Kentucky, secretary. For superior court judges, he selected Charles Jouette of Michigan, Robert P. Fletcher of Kentucky, and Andrew Scott of Missouri.

James Miller had no political experience, but he had been a good soldier from his youth. He was a hero of the War of 1812, and his "I'll try, sir," uttered when ordered to capture a very difficult position at Lundy's Lane, became famous. He served nearly two terms as governor, although out of the Territory much of the time, and then was appointed customs collector at Salem, Massachusetts. Robert Crittenden was secretary of the Territory ten years, and was very prominent in Arkansas politics and government until his death in 1834. He was born in Virginia, made a good record in the army, studied law in Kentucky, and was admitted to the bar. He was a brother of John J. Crittenden of Kentucky, a prominent Whig leader and influential man in the affairs of his State and Nation down to the Civil War. Robert Crittenden was only twenty-two when he came to Arkansas. He intended, no doubt, to grow up with the new country, and become one of its leaders. He was, however, too much interested in his own fortune and too aristocratic and domineering in manners to become a very popular leader in a democratic pioneer country.

The regular government of the Territory was scheduled to begin July 4, 1819. Crittenden and the superior court judges arrived on time but Governor Miller, in becoming dignity, came very leisurely and much later.

Soon after Crittenden's arrival, he called for a meeting of the Territorial Legislature, to be held July 28, 1819. This first Legislature consisted of Crittenden, the acting governor, and the three superior court judges. These men were gathered from widely scattered parts of the United States, to make laws for a new pioneer country. Jouette presided, and a young man, George W. Scott, who later gained some wealth and prominence, was chosen clerk. The session lasted only five days, but several acts were passed. The laws of a general nature in operation in Missouri Territory were adopted for Arkansas, which, of course, had been in operation there when Arkansas was a part of Missouri Territory. Two judicial circuits were created. The first contained the counties of Arkansas and Lawrence, and the second, Clark, Pulaski and Hempstead.

The judge of each circuit received a salary of $1,200 per year. The offices of territorial auditor and treasurer were created. Acting Governor Crittenden later appointed G. W. Scott, auditor, and James Scull, treasurer. Each of these men drew a salary of $300 per year. James Woodson Bates was appointed judge in the first judicial circuit, and Neil McLane in the second.

To run the territorial government the first eighteen months, from July 4, 1819, to January 1, 1821, the Legislature arranged to collect by taxation the sum of $4,816.87½. In addition to the salaries of the auditor, treasurer, and circuit judges, the items of the government expenses consisted of $10.87½ for stationery, $56 for the clerk of the Legislature, and $150 for distributing the laws. There was no printing press in the Territory and copies of the laws had to be written in long hand; a copy made for the clerk of the Superior Court and one for the clerk of the Circuit Court in each of the five counties. The United States Government paid the governor's salary of $2,000 per year, the secretary's of $1,000, and the salaries of the superior court judges. These salaries seem small, but there were few people in the Territory to pay taxes, and they were, as a rule, very poor, and money was scarce. In addition, there were county officials to support. Office seekers and politicians always exerted pressure for more counties and more offices. The official duties of the offices, as a rule, were very light.

On November 20, 1819, an election was held to choose a delegate to Congress, five members of the Legislative Council, and nine members of the lower house. In calling this election Crittenden plainly violated the Territorial Act which made the members of the Council appointive, but Congress acquiesced and provided that both houses should be elected. The most prominent men of the Territory who did not hold some of the other offices announced themselves as candidates for Congress. Among these men were James Woodson Bates, who belonged to a prominent family in Missouri, and had been in the Territory about a year; Alexander S. Walker, an old resident, a large land owner, and sheriff of Hempstead County; Stephen F. Austin, who came to the Territory for a short time as a land speculator, but was, nevertheless, the most popular candidate because of his well known father, Moses Austin. There were other candidates, of a short residence generally, as Percy Wallis, Robert F. Slaughter, and Henry Cassidy. Bates was elected by a small plurality out of a total vote of 1,277, possibly because Austin announced too late.[1]

Meanwhile the event most looked forward to in the little town of Arkansas Post, on the outskirts of civilization, finally came to pass—Governor Miller at last arrived. He came in proper style. Some wondered whether the old town would take on new life as the capital of this

1. Shinn: *Pioneers of Arkansas History*, 50-55. Herndon, I, 156.

new Territory, and hoped-for-state. Nothing to compare with this event had happened since the coming of John Law's colony, about one hundred years before. Then hundreds of workmen had made the place ring with the sound of busy life; but suddenly all was gone, the forest crept into the streets and trees grew up through the deserted houses. But at this very time there were men present who knew that the opportunity of the old town was to pass again, as plans were already laid to move the territorial capital to another place.

Governor Miller had certainly given the people time to prepare for his coming. He was appointed March 3, 1819. But his commission had been sent to Arkansas Post and he did not receive it till the last of May. He did not leave his home in New Hampshire till September. A barge had to be fitted up at Pittsburgh in the proper style. While there he loaded on it an equipment of arms and ammunition for a small army of 400 militia. Then he left Pittsburgh about the middle of October. The water was low, the barge went very slowly, and this old hero of Lundy's Lane, who was a jovial, likable fellow, was wined, dined and "liquored" at all the stopping places from Pittsburgh to Arkansas Post.

But why hurry, anyway? Was he not the governor, and were there not enough officials in Arkansas Territory already? At last on Sunday, December 26, the waiting people, politicians, and land speculators about Arkansas Post saw the barge slowly coming up the river. It was an inspiring sight. The word "Arkansaw" was emblazoned in large gilt letters on both sides of the cabin. At the bow "floated the national ensign." On one of its white stripes was likewise emblazoned the word "Arkansaw," and just below it the famous "I'll try, sir." Doubtless the people all along the Mississippi learned how to spell "Arkansaw," and knew for sure that its governor was a man of importance.

With Governor Miller came a number of bright young men to seek their fortune in a new land. And to the gratification of many of the young ladies in the town, only one of whom was married, came Captain Spencer of the United States Army, who later became the first sheriff of Phillips County. Two young lawyers, Samuel Dinsmore and Rufus Spalding, had to leave the next summer because of sickness; later Dinsmore became Governor of New Hampshire and Spalding a member of Congress from a district in Ohio. Others of the small group gained some prominence in Arkansas or in Louisiana.

The first elected Legislature of the Territory of Arkansas met on the call of Governor Miller, February 7, 1820. It contained some of the ablest men of the Territory. The Council of Five consisted entirely of "Old Timers." Among the nine members of the House were several new comers. During the election the words "Old Timers" and "New Comers" were often used. This first Legislature made regulations for collecting

taxes, created two new counties, Phillips and Miller, and elected as public printer, William E. Woodruff, who had just brought all the equipment for his Arkansas "Gazette" from Middle Tennessee in a canoe. Woodruff regularly supported the Democratic party or faction in Arkansas, generally the party in power, and received the paying public printer's work for so long that he came to consider his election as one of the regular duties of the Legislature.

The second session of this Assembly met October 2, 1820. It passed several acts. One of the first provided that any person who engaged in a duel, and killed, or wounded his opponent so that death resulted within three months after the combat, should be guilty of murder. Even the aiders and abettors were also declared equally guilty. Witnesses who refused to give evidence were to be lodged in jail until they were willing to do so. Any person giving or carrying a challenge was to be fined one thousand dollars. This law was quite ineffective, as most duelists went outside the Territory to fight. Crawford and Independence counties were created. Sheriffs were required to take the census every two years. The capital was ordered moved to Little Rock.

The removal of the capital had been a live question for some time, but the activities in connection with it had been pretty much a "sub rosa" affair. It had, however, been discussed in the first legislative meeting.

The country about Little Rock was then a wilderness. Thomas Nuttall, a scientist, who visited the place during the early part of 1819, said a Colonel Hogan and a few scattered families were living in the neighborhood, on "high, healthy, and fertile lands," on both sides of the river. This Little Rock settlement secured its name "Little" to distinguish it from an outcropping of larger rocks or cliffs, about 150-200 feet high, farther up the river. Hogan's house was the only one at the Little Rock settlement. Nuttall noted that a road from St. Louis to the Hot Springs, Red River, and Louisiana settlements crossed the Arkansas River at this place. Twenty-two miles away there was a colony of nine or ten families at the mouth of Saline Creek, on the Ouachita. At Cadron, fifteen miles above, Nuttall found a "contiguous" settlement of five or six families and heard talk of a town there. He stated that there was no town or village on the Arkansas River except at Arkansas Post. He said that families were coming from Kentucky and Tennessee to the Little Rock country, and that land speculators were active there. He heard some talk of a town being located at the place.

In 1812, a hunter, William Lewis, had built a cabin, about eight by ten feet, of split slabs, at the "Little Rock." He did this for the purpose of making a preëmption claim of occupation and cultivation for the land; and for the "cultivation," he planted some pumpkin seeds about the cabin, or shack. He remained here about three months, and then went again

on hunting expeditions. In 1814 he returned and secured a certificate of preëmption for 160 acres of the land. This certificate was transferable, and he soon sold it for ten dollars, and gave his shack to a neighbor.[2]

This Lewis certificate of preëmption passed through several hands but later (perhaps during the latter part of 1819) William Russell, a noted land speculator of St. Louis, bought it from Benjamin Murphy and had it registered in the Lawrence Land District at Davidsonville. He paid forty dollars for the first half of it that he bought. Soon another claim to the same spot of land was begun. Three men, Elois Dejarlois, Francis Lessieur, and Peter Porier, held government certificates for land along the Mississippi which had been overflowed because of the sinking of that section during the famous New Madrid earthquake in 1811. These men were given new certificates which could be located on any unappropriated government land. These certificates were secured in 1815 in St. Louis from the United States Land Commissioner, Frederick Bates. Sometime later they were bought by William O'Hara, a noted land speculator of St. Louis. On February 24, 1819, he located, as his land claim for these certificates, a place at the Point of Rocks, one-half mile up the river, and one half mile back. Below this point the land still belonged to the Indians. Two brothers, Jackson and Joel Crain, later also made a preëmption claim for the same tract of land. This was sold to Roswell Beebe, another speculator. So there were three claims to this same spot of land, the legality of which was to be fought out in the Legislature and courts.

About the time that the agitation for the organization of the territorial government for Arkansas began, William Russell, who owned real estate in many places, New Madrid land certificates, preëmption claims, and many old Spanish land grants of various amounts, came in 1817 to Arkansas Post. Of course, he was much interested in the organization of the territorial government for Arkansas and statehood for Missouri, because of the influence it would probably have on immigration and the price of land.

It could be readily seen that Arkansas Post, as the capital, would be too far from the center of the Territory and that it was located in a low, unhealthful, mosquito-ridden country. The Little Rock section would be a good location; the first highlands up the Arkansas, at the great road crossing from St. Louis to Louisiana, and it was in a region of a healthful climate and fertile land.

So why not buy the land claims for this Little Rock section of country, lay off a town, distribute lots to certain influential members of the Legislature, and thus enrich themselves and benefit the country? The land speculator was always an optimist and of great imagination.

Pulaski County was created, December, 1818, and, having no county-

2. Herndon: *Highlights of Arkansas History,* 30-31.



BEAUTIFUL BLUFF DRIVE LEADING TO OZARK COLONY



POULTRY RAISING IS HIGHLY DEVELOPED IN THE OZARKS



A TYPICAL OZARK STRAWBERRY FIELD

seat, its court was held at Hogan's house[3] at the Little Rock. Next year, March 2, 1819, Congress created Arkansas Territory and provided that the capital should be at Arkansas Post until the Assembly saw fit to move it elsewhere. By this time, if not before, Russell and O'Hara, who knew how to bring things to pass, had secured the land claims at the "Little Rock."

O'Hara sold an interest in his claim to Stephen F. Austin, of Potosi, Missouri; and to Austin's brother-in-law, James Bryan. In the fall of 1819, Moses Austin, father of Stephen, came to the Little Rock, and built a shanty of cypress slabs at the so-called "Point of Rocks." It was the only house there at the time. At the beginning of the next year, Stephen Austin and Bryan came down to look further after their claims. The Austins had much influence among the people of the Territory. But they soon sold their claims to James Bryan and went to Texas for greater fame and fortune.

Meanwhile, Russell had sold, donated or given away interests in his claim to influential men and politicians, such as Robert Crittenden, Henry W. Conway, Thomas P. Eskridge, Townsend Dickinson, and Rufus Spaulding. R. C. Oden soon secured Dickinson's interest. A few days before it was voted to move the capital, Joseph Harden, speaker of the Assembly, was given an interest in the property. In December, 1819, Russell offered to compromise the matter of the ownership of the land with the O'Hara-Bryan group, owners of the New Madrid certificates claim. He knew the uncertainties of courts; the Legislature had not yet met to decide the matter; Crittenden, and perhaps others, had secured some interest in the O'Hara-Bryan claim; and Miller, who had now arrived, had plans for placing the capital above the Little Rock at Crystal Hill. Here at the Pyeatt settlement, he had bought land and erected one or more two-story double log houses. Under the circumstances, it perhaps seemed a wise plan for all concerned to work together in securing the capital at Little Rock on their joint property, and divide the profits.

In July, 1820, Rev. Cephas Washburn, a Congregational minister, visited Little Rock. At this time there was a two-room frame house near the Point of Rocks. One of the rooms was used as a meeting or gathering place, and from the other were sold groceries, drugs, and liquors. Scattered back from this place among the pines were a few huts made of round logs. In the Rev. Mr. Washburn's audience, to hear the first sermon ever preached in Little Rock, were some men who later became famous in Arkansas history. There were fourteen men, nearly all young and well educated; lawyers, doctors, and land speculators.

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3. Edmund Hogan, of Georgia, was said to be the first permanent settler in Pulaski County. *Nuttall's Travels Into the Arkansas Territory,* 1819, p. 146.

Among these men were Amos Wheeler, the first postmaster of Little Rock, and who had an interest in the O'Hara-Bryan claim. He died the following year. Dr. Matthew Cunningham, a young man, a graduate of the University of Pennsylvania, had just arrived. He built the second house at Little Rock, was its first mayor, and his wife was the first lady of the town; Stephen F. Austin, just arrived, one of the O'Hara-Bryan claimants; Daniel T. Witter of Mississippi, a lawyer, and later a judge. Witter left the "anticipated capital" in a short time; and Chester A. Ashley, of Massachusetts, a well educated young man, and had just come west to seek his fortune. He had met Russell in St. Louis, who had recognized Ashley's ability, and probably sent him to Little Rock, to help "hold the fort" for his land claims. Ashley soon had an interest with the O'Hara-Bryan group as well as with Russell. He later became one of the town's ablest and wealthiest citizens. James Bryan, son-in-law of Moses Austin, was a prominent land speculator; Charles H. Pelham and Henry Sanford were also there.

During the summer of 1820 Russell tried to arrange a compromise between the two parties; he offered to buy an interest in the O'Hara-Bryan claim. The claims of both parties had cost perhaps less than one hundred dollars.

As has been stated, the February, 1820, session of the first Assembly discussed the moving of the capital, but in the October, 1820, meeting, Amos Wheeler, on behalf of himself, Chester Ashley, William Russell, and others, offered to guarantee, under a $20,000 bond, that a suitable structure for the legislative meetings would be constructed without cost to the Territory, if the capital would be placed at Little Rock. So it was voted to move the capital there. The two factions worked together in this matter.

And the capitol building was duly constructed, for when the second Territorial Legislature met there, October, 1821, they found a one-story frame building, "a mere shell," containing two rooms about twenty feet square, separated by a small hall. Some say it was built of logs, and later replaced by a frame structure. It was located on a block now bounded by Main and Scott, Fifth and Sixth streets.

But again, taking up the story of the removal, early in 1821, the O'Hara-Bryan group laid off a town called Arkopolis; the "Ark" from Arkansas, and the "polis" from the Greek, meaning city. Nevertheless, the Territorial Superior Court, one member, at least, an old friend of Russell, ousted these town builders and gave Russell and his group control of the town site, log houses, and "improvements." Some of these buildings were demolished and others were moved. The Bryan-O'Hara company was not dismayed, however; court decisions were rarely final and other preëmption claims could be found.

Immigrants were coming. The Territorial Legislature met at the new capital, October, 1821; the county-seat of Pulaski was moved there also from Cadron; a new postmaster, Henry W. Conway, was appointed; a session of the Superior Court was held; and Woodruff had arrived with his Arkansas "Gazette"; all these things had happened during the latter part of 1821.

Russell and the O'Hara-Bryan crowd patched up a compromise during November, 1821, all fearing expensive litigation, uncertain court decisions, and the ways of politicians in general. Then, too, uncertainties of land titles, hindered the growth of the town.

New surveys were made; the name Little Rock took the place of the high sounding "Arkopolis," but not in the geographies of the time. Lots were sold and houses were built. And all those whose names were in the "pot" had a share in the rejoicing and feasting.

Thus the matter rested till 1836. Roswell Beebe owned property joining the lands of the old claimants. The Quapaw Indians never relinquished their claim of the Little Rock country until 1818; the Attorney-General of the United States and the commissioner of the general land office declared that preëmption claims located there before 1818 were invalid; and that the New Madrid certificates, provided for by Congress in 1815, were to be located, legally, only on territory at that time relinquished by the Indians. And Roswell Beebe had bought, in the meantime, the Crain brothers' 160-acre claim, already mentioned as a preemption claim to the site of Little Rock. Beebe also bought an 80-acre claim from George Harris. In 1839 he secured patents on these holdings. Chester Ashley, perhaps the best land law attorney at the time, was his partner. But instead of law-suits to settle the matter, it was again compromised. For a small amount, about one dollar, Beebe offered to perfect titles of all those who had purchased land from the old claimants. The claimants, however, paid the cost of registration. After some hesitation, the Legislature, in 1843, ordered the Beebe Company to be paid one dollar for a new deed for the land occupied by the State House.

When the second Territorial Legislature met at Little Rock (October 1, 1821) it made some changes in the court system. The courts established by the United States exercised the principal judicial authority during the territorial period. At first there were three judges who traveled on circuit to hold court in certain counties. After having gone on circuit they sat together at Little Rock to form a Superior Court. In addition there were local county courts of very limited jurisdiction.

At this time John Quincy Adams, as Secretary of State, issued the commissions to the judges. He tells us that some of these judges, who had been appointed on the allegation that they were going to Arkansas and to satisfy solicitous friends, accepted the appointment and received

the salary up to the last hour they could and never went to the Territory. One wrote him in the spring sending in his resignation to take effect July 4, expecting to receive the salary up to that time without performing any duties. He also says that the Territory was nearly two years without courts and that the Legislature memorialized Congress about the matter, but there seems to be no other record of this memorial. It is well known, however, that the first three appointees, Charles Jouette, Robert P. Fletcher, and Andrew Scott, although they came to the Territory and helped Robert Crittenden organize the government, left in a few weeks, two of them never to return. But as three others were appointed before the close of 1819, including Stephen F. Austin, and three more before the end of 1821, it is hard to see how any drew a salary for any length of time. James Woodson Bates, who had held a commission for a few weeks and then was elected delegate to Congress, advised the appointment of residents, but Colonel Richard M. Johnson, afterwards Vice-President of the United States, brought about the appointment of his brother, Benjamin Johnson.[4] This one held office many years and proved very satisfactory.

The second Legislature also found that the tax rate levied was not furnishing enough money to pay the office holders. The governor was authorized to borrow $10,000 for the governmental expenses, and changes were made in the tax law. The Missouri tax system, with a few minor changes, had been adopted for Arkansas. In 1820 the land tax was sixty cents on every hundred acres of land, but it was now changed to one dollar and twenty-five cents per hundred acres. The reason the tax was levied according to the quantity of land, and not according to its quality or value, was because the wealthy men owned the rich bottom lands and had control of the Legislature. They shifted an undue portion of the tax burden on the poor class of land holders, whose poor, rough, unproductive lands would pay the same rate of tax as the rich, productive bottoms. This system of unequal taxation continued until 1835, when, because of the determined opposition of the great majority of the people, the taxable land was divided into three classes; the first class land was to be taxed at the rate of one dollar and twenty-five cents per hundred acres; the second class, at one dollar; and the third class at seventy-five cents. Under the new law the assessments and the classification of the land was made by the sheriffs, and appeals from his decisions were made to the clerks of the circuit courts, or the county courts. Complaints of unfairness in the system of assessments continued throughout early Arkansas history. It soon became the custom in most places to assess all the land, good or bad, at the same rate. In many counties no difference in value

4. *Memoirs of J. Q. Adams,* V, 212. Herndon: *Centennial History of Arkansas,* I, 911.

was made whatever; all the land was put in the same class; and the old system, in fact, was continued.[5]

Other taxes during the early territorial years were levied on houses and town lots. At first every house in town or country was taxed at the rate of fifty cents per hundred dollar valuation. After 1831, the taxation of houses was turned over to the counties. Slaves over ten years of age, except those exempted by the county court, were taxed at the low rate of fifty cents each; pleasure carriages, $2.50 for every $100 valuation; each store or stand, $20, and no difference was made as to value. Licenses to trade with the Indians cost $50; occupations were taxed; lawyers, doctors, peddlers, keepers of billiard tables and ninepins, and taverns; and various kinds of property were taxed such as stocks, mills, tan yards, distilleries, stud horses, ferries, circuses, and shows.

Then there were two hundred or more different kinds of fees charged for the circuit court attorneys, clerks, constables, coroners, cryers, jurors, notaries, sheriffs, etc.; and these fees ranged from ten cents to thirty dollars.

By the time of the election of 1823, the parties or factions, organized for the control of the public affairs and the securing of offices, had become well defined. Crittenden was the leader, or the "Cardinal Wolsey," as he was sometimes called, of one faction or party, and Henry W. Conway and Ambrose H. Sevier were the leaders of the other faction. Crittenden, from Kentucky, was a great admirer of Henry Clay, and professed Whig principles, after the rise of that party. Sevier and Conway, of Tennessee, were strong Jackson men, and claimed Democratic principles. However, the principles practiced by these leaders were of the "five loaves and two fishes" kind, as Randolph of Virginia once said of the Whig party. There was little true democracy practiced in the conduct of government and politics during these times. Crittenden and James Woodson Bates were at first political allies, but unfortunately for their political machine, they soon quarreled. Because of Crittenden's hostility, Bates was not again nominated to represent the Territory in Congress. Bates then moved to "Batesville" to become the political leader of that section. He was later appointed to the Superior Court judgeship by the President, John Quincy Adams. Henry W. Conway was the second postmaster of Little Rock, and served three terms in Congress. He was killed in a duel with Crittenden in 1827.

In the election of 1823, Governor James Miller allowed each of the nine counties one member of the Council, and one or more members of the lower House. The Assembly of 1823 made minor changes in some of the laws, created the office of prosecuting attorney, and formed Chicot

5. D. Y. Thomas: *History of Taxation in Arkansas, Publications Arkansas Historical Association,* II, 47. Batesville *Independent Balance,* July 6, 1856. Steele and McCampbell: *Laws of Arkansas Territory,* 460.

County. It earnestly urged Congress to build a road from Memphis to Little Rock, asked for a surveyor-general for the Territory, more protection against the Indians, and for an extension of preëmption privileges.

Governor Miller soon left Arkansas in the latter part of 1824 for his new position of collector of the customs at Salem, Massachusetts, but before continuing the political story under a new governor, it is necessary to give attention for awhile to other things.



CHAPTER VII.

SOCIAL AND ECONOMIC CONDITIONS IN EARLY TERRITORIAL ARKANSAS.

The population of Arkansas grew steadily following the Louisiana Purchase. Still many immigrants passed through it, or around it, because of the swamps or overflowed lands on the east near the Mississippi River, or because they sought the rich prairie lands beyond her borders. The population of Arkansas in 1789 was 368; in 1810, 1,062; and in 1819 it was about 14,000, widely scattered over the best lands not held by the Indians.

Thomas Nuttall, a scientist from the east, who visited Arkansas in 1819, took notes on many things he saw and experienced. He said no people at that time lived in the low swampy lands along the lower courses of the Arkansas and White rivers; it was a vast and solitary wilderness. The first cabin or clearing that was seen after leaving the Mississippi was sixteen miles above the "cut-off" between the Arkansas and White rivers. This "cut-off" was a kind of bayou or stream that connected these two rivers some distance above their mouths. It was wide enough and of sufficient depth for boats; and the current sometimes ran from the White to the Arkansas, and at other times went in the opposite direction. Above this "cut-off" at intervals of a few miles on elevated places, and at times entirely surrounded by water, were isolated dwelling houses, or cabins, occupied generally by French or half-breeds.

Arkansas Post was situated on the first prominent elevation on Arkansas River. It was a scattered town of thirty or forty houses, and was the trading center of the whole surrounding country. The furs, hides, bear oil, wild honey, and other produce were brought down the White and Arkansas rivers to this town and exchanged for the merchandise brought from New Orleans, such as guns, ammunition, hardware, cloth, and groceries. Francis Notrebe, a Frenchman, and an old resident, was the principal merchant.

Some shiftless and ne'er-do-well people were found in the town and along the river. Their houses were of logs; and although in a very fertile country, they had neither gardens nor cows. Nuttall said that there were some educated refined people who lived in clean, frame houses, built in the old French style—high gable roofs, with wide porches or verandas. These dwellings had no glass windows, but were airy because of the many doors and openings. Most of the descendants of the old French settlers lived in hewed or unhewed log houses. At the time of Nuttall's visit and for years after, there still remained at Arkansas Post

some old French customs and ideas; such as festivals, plays and games, christening, saints' days; and the work and influence of the priests were still felt. The old French settlers were generally gay, light hearted, and loved music and dancing.

As a rule they had not adopted a settled village life as much as the English had, and many did very little farming and gardening. They engaged quite a good deal in hunting and fishing, and bartering with the Indians, with whom they lived as brothers. They were generally smaller but quicker in actions and speech than the English. In time they gradually adopted English manners, occupations, and customs, socially and politically.[1]

Later when Nuttall returned to Arkansas Post, the little town had taken on new life. The Governor, James Miller, had arrived, and there were many land speculators, officials, and office-seekers there. There was some excitement in the little town, too, over the trial of a man who had committed a revolting crime against his small step-daughter.

Along the river above Arkansas Post were a few Quapaw Indian villages, and some widely scattered white settlements. About thirty-five miles up the river was the Davidson or Mooney settlement of three or four families living in log houses. Here crops of very good corn and cotton were raised. At Curran's settlement six families lived on choice land which produced 1,000 to 1,500 pounds of cotton of a very fine quality and maize "as luxuriant as possible." He was particularly struck with "the unequivocal appearance of health and plenty." At intervals of a few miles to as much as sixty or seventy miles, were other similar places of from two to six families; such as the Morrisons, Currans, Kirkendalls, Dardennes, Vaugines, Le Bonns, Daniels, and Hogans. The last two families were near the "Little Rock." About this section of country, both sides of the river seemed to be more thickly settled than farther down near Arkansas Post. Above Little Rock were the Pyeatt and the Cadron settlements, and at the latter place lots to the value of $1,300 had just been sold for an expected town. As far up as Point Remove, at the Cherokee Indian eastern boundary line, more settlers were found scattered along the river than there were below Little Rock, with such names as McIlhenry, Frasier, Ellis, and others. About Point Remove there were no less than fourteen families.

All through the Indian country to the newly established Fort Smith (established 1817) white families were found, perhaps more thickly settled than the country on the lower Arkansas. The soldiers sometimes removed the whites from these Indian lands, but they would soon return. Some of the Indians were "poor and indolent" and had learned from the whites "wants which they have not the power of gratifying." The

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1. Chambers: *Mississippi Valley Beginnings,* 126-29. Flint: *History and Geography of the Mississippi Valley,* 315.

younger ones were "extremely foppish in their dress." There were many settlements on the edges of the prairie country towards Red River. Some of the people farmed, some hunted, and other did both. Between Fort Smith and the Red River settlements, there were mountainous, unsettled regions. On the Spanish borderlands were located many criminals and desperadoes.[2]

Settlers were now on the Fourche Le Fave, in the present Perry County, and on the Saline in the present Saline County. But it must not be understood that people had gone into all parts of the territory. Great stretches of country, as that which lay northeast of Little Rock, the present Lonoke and Prairie counties, had no inhabitants in 1819.[3]

About the same time that Nuttall was on the Arkansas River, another traveler, an intelligent, educated man, wrote the story of his travels on White River. He came down this river in 1818. At that time there were people as far up as the Missouri line. Those who lived farthest up the stream were hunters, poor and illiterate, who lived a rude, rough life, in one-room log cabins. Below Beaver Creek, there was an average of a settler every four miles. Below the Great North Fork, about the Sugar Loaf, four families (on both sides of the river) were passed in eight miles. Below the Little North Fork were still more people. Some distance below Calico Rock was a stretch of fifteen miles, in which no settler lived. South of the river lay the Cherokee Indian country, and the presence of these people somewhat retarded settlement in that country. Many white people, however, lived south of the river, and had cultivated fields. Down this stream such settlers as the Sees, Matneys, Laffertys, and Joneses were found. Then there was a stretch of eight or ten miles in which no one lived, until Poke Bayou was reached, where Robert Bean and others formed a settlement of twelve or fourteen houses, clustered together. It was the only village on the upper White River. Settlers had lived here since about 1810, if not earlier. This village was the central trading point of the whole region. Here the hunters brought their furs and hides; and in return bought "store goods, groceries, and whiskey."[4] This town later became known as Batesville, named in honor of James Woodson Bates, who had moved from Missouri into the territory for political honors.

No one lived for several miles below Poke Bayou. Lower down, Strawberry Plains had been settled since 1810. Then again there were stretches of country in which no one lived. In the present Greene and Marion counties as late as 1850 and 1860, there were settlers who lived in log cabins, and were miles from a neighbor, post office, or store.[5] Quite early, from 1802 to 1812, some people had gone up Black and Strawberry

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2. Nuttall: *Journal,* 137, 155-59, 161-63.
3. Goodspeed: *Central Arkansas,* 577.
4. Schoolcraft: *Adventures in the Ozarks,* 90-120. Goodspeed: *Central Arkansas,* 627.
5. Schoolcraft, 130-34. Goodspeed, 201, 917.

rivers, and the country about Davidsonville had been settled even earlier. But the first people who came into the present Poinsett and Greene counties did so after 1820, and the present Clay and Craighead counties were settled after 1830.

High, dry places on the St. Francis and the Mississippi rivers, as in Desha and Philips counties, had settlements before the Louisiana Purchase, but the country about the present Mississippi County was an uninhabited wilderness in 1819. On the Ouachita River, such settlements as Biscoeville and Marlbrook had been made, but in 1842 a man in the territory of the present Clarke County could locate many miles from a neighbor or store, and go twenty miles for his mail.

Geographies published in 1833 said Arkansas still had a small population, few towns, isolated settlements, and wide stretches of uninhabited country.[6] While there were people in Arkansas as late as the Civil War who lived the isolated, lonely life of the pioneer, there were, from the early days of her history, many refined, educated people, who lived in good, well furnished homes, had slaves, and enjoyed all the comforts of life. But in 1819 these people were few indeed. At that time there were hardly any frame houses outside Arkansas Post.

Immigrants who came to Arkansas after the Louisiana Purchase were principally from the older states east of the Mississippi River. They came principally from Tennessee, twice as many as from any other State. Some came all the way from North Carolina, following the parallels of latitude. A larger number from the far eastern states remained for awhile in Tennessee or Kentucky, or even Mississippi, and then came to Arkansas. Mississippi, Alabama, and Georgia furnished settlers; many others came from north of the Ohio and Potomac; even far distant New England was well represented in such a man as Chester Ashley. The Middle Atlantic States had such men as William E. Woodruff and the merchants, Terrence Farrelly and Thomas Curran. Illinois furnished most of the settlers from north of the Ohio. The few people from the foreign countries were mostly English, German, and Irish.

The rich and well fixed in life, as a rule, never emigrate to a new country; this is also true for the shiftless and ne'er-do-wells who never have the courage or energy to face the hardships sure to be encountered. The people who did emigrate came to Arkansas in various ways; some of the young and strong, like Woodruff, walked at least part of the way. Probably the most common method was in a one or two team ox wagon. Others came in wagons drawn by two, three, or even four horse teams. Some cattle were generally driven along with the wagons. Various amounts and kinds of farm tools, household goods, and kitchenware were brought. Many of these people brought a small amount of money to buy a farm, but others settled on unsurveyed government land not already

6. See Flint: *The History and Geography of the Mississippi Valley,* I, 284-85.

preëmpted. A few of the immigrants brought many farm tools, costly furniture, cattle, horses, slaves, and a few thousand dollars. Near the frontiers were hunters, or half-hunters and half-farmers, who were always ready to sell their farms, cabins, or preëmption claims and move farther into the forests.

Bottom lands free from overflow were selected as much as possible by the farmer immigrants, and the houses were generally placed on slight elevations near springs. Neighbors came to help build the temporary, or more or less permanent houses. If there were slaves, houses, buildings, and clearing went rapidly forward. The industrious soon had fields cleared, small orchards and gardens provided. And the temporary structures of logs were followed by larger frame buildings, or possibly brick. Their owners became the officeholders and leaders of the country.

The purpose of the immigrant in coming influenced his life in the new country. Some came for better opportunities for themselves and children; to start life anew. Some were the ever drifting hunters, who lived a semi-savage life, and a few were criminals or refugees from the older states. Many of the pioneers were uneducated, and rude in conduct and manner, but were generally kind, persevering, brave, and self-reliant.[7]

The old hunter was a common, interesting type. He had the call of the wild strong in his blood; he liked the campfire better than that of the hearthstone; the baying of the hounds was sweet music to him. He loved the great out-of-doors, and the wild, free life in the woods. Hardships never worried him. These hunters usually built the roughest kind of one-room, unhewed log houses; sometimes without floors, door, shutters, or windows, and neither wind, rain, nor snow was excluded. Their cabins were generally about sixteen feet square, and eight or ten feet high. The roofs, of long, rough boards, were usually held in place by poles and stones. Of course, many of the half-hunter half-farmer type built much better log cabins. Doors and windows worked on leather hinges or on pegs fitted into holes. Floors, if not the hard packed dirt, were made of rough, hewed, or split logs. Pieces of split wood were fitted in between the wide cracks between logs, and perhaps daubed over with mud when very cold weather made this absolutely necessary. Many mornings the children kicked the rough quilts or bear skins aside that were covered with snow, and hastened to huddle around a roaring log fire in a wide chimney place at one end of the cabin. A long rifle, if the owner of the cabin was at home, lay on pegs over the door. Sometimes meat, strips of pumpkins, and "shuck" beans were hung to dry from the rafters overhead.

In these cabins was rough homemade furniture, such as beds, tables, stools, and cupboards. Meal and meat "gums" were made from two or three foot blocks cut from a hollow blackgum log. There were very

7. Schoolcraft, 228.

rarely enough plates, cups, knives, or forks, pots, or pans. A single iron pot was often used for cooking food, heating water, washing clothes, and making lye soap. A single long-handled skillet was used for a number of things.

Lights were sometimes made by cutting strips of fat bacon, and then these strips were wound around one end of a stick, lighted, and the other end stuck in a crack. Pieces of burning cloth stuck in cups, or saucers, or even gourds, filled with grease or bear oil, made dim sputtering lights.

These people raised barely enough corn for bread and few vegetables. The men-folks generally helped plant and cultivate the small crops, and left them for the women and children to gather in the fall. They rarely had enough milk or butter. They lived principally on bread and meat.

They wore rough, home-woven cloth, or leather clothing, homemade shoes or moccasins. They knew little about diseases and medicine, and many of them died through ignorance and neglect, especially the children. Many of the children died in infancy, and were buried in unmarked and soon forgotten graves. The women-folks generally led sad, lonely lives. One writer, who knew these people well, said the hunters were often greeted on their return by "dogs, women, and children, all greasy and glad." Many of them lived without religion, manners, or morals. As a rule, they were hospitable to strangers, though sometimes they were churlish and mean.

As late as 1840 a traveller stopped at a hunter's home in northwest Arkansas. A family of ten lived in surroundings about like those described above. The father kept honey in a deer skin, and poured it out through one leg into gourds for the children to eat.[8]

Hunting in the early days of Arkansas history was an important industry, and was carried on quite extensively in the mountainous and thinly settled regions up to the time of the Civil War. Wild game was once very plentiful; bear, deer, elk, wolves, wild cats, foxes and many other kinds of wild animals, and great flocks of wild turkeys, geese, and ducks furnished the hunters and early settlers some ready money, and a large part of their food and clothing. The bear, deer, and wild fowls were the most valuable for food; the mink, otter, beaver, and raccoon furnished the highest priced furs; and the bear and deer were most prized for their hides or skins. The soft, pliable, easily-worked deer skins were best for the homemade moccasins and clothing.

The furs, hides, wild honey, bear oil, and meat, at certain times, generally in the spring, were carried to the neighborhood markets, or to some storehouse to meet the boats that came regularly up the principal rivers for these products. In the earliest times they were carried to Arkansas Post in canoes, but later merchants sent boats up the rivers at

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8. Schoolcraft, 94-100, 228, 235. Gerstaecker, F. W. C.: *Streifund Jagdzuge durch die Vereungten Staaten Nord-Americas,* 195-204. Gaskins: *Life and Adventures of John Gaskins in the Early History of Northwest Arkansas,* 21, 38.

more or less regular intervals to collect the supplies at certain stopping places. Storehouses were generally built at these stopping places, where the supplies could be stored and merchandise sold to the people. In 1819, Drope, a merchant at Arkansas Post, sent a keel boat regularly up Arkansas River as far as Fort Smith. It gathered the hunters' and farmers' products and brought merchandise to the trading stations. It was pulled, pushed, and "polled" up the river, and made from eight to even forty miles per day, when it was not stuck on sand bars. From north and northeast Arkansas many hunters carried their products on horseback or in wagons overland to Cape Girardeau, Missouri.

The hunters never received very much for their products. In early days three or four cents per pound, or even less, was all that could be secured for wild animal meat. Deer, hams and turkeys sold for twenty-five cents each at Cape Girardeau, Missouri. At that place, about 1830 and 1840, hunters received for deer skins from $1 to $2; bear, $1.50 to $2; panthers, $1 to $1.50; mink, $1.50 to $3; otter, $4 to $6; coon, 25 cents to 50 cents; wild cat, 25 cents; beaver, $7.50. The meat was then, for bear, 25 cents per pound; deer, wolf, and wild cat, 10 cents per pound, and turkeys, $1 each.[9] An old hunter in Izard County said that in 1856 he sold fifty-three deer hams for $53. Wagon loads of hides and furs were hauled to Memphis and sold for not over $100. It was a good hunter, who at any time, could make $200 per year.

Before the common use of steamboats on the rivers, and even after that time, in remote places, the prices for various articles seemed high. At first, blankets sold for $8; cloth, $6 per yard; salt, $5 per bushel; coffee, 25 cents per pound; lead, 25 cents per pound; axe, $6; horse shoes and nails at $3 per set. Of course, later, with the improvement in transportation, these prices were very much lower.

The hurriedly built plain log houses of early settlers who came to farm or to depend chiefly upon that occupation for a living, were followed generally by the two-room one-story houses, connected by a porch, all built of hewed logs under the same roof. Often a long porch ran clear across the front. A kitchen and a smoke house were sometimes built in the backyard apart from the main building. Some few added slave quarters before they changed this style of house building.

These houses were more carefully chinked and daubed, if daubed, and some were ceiled with hand-sawed lumber, or carefully split, smooth boards. The fireplaces were wide and deep. Iron door hinges were used, but not always. The gun held its accustomed place. There was still homemade furniture, but it was much more carefully made. Some of the furniture was hauled in wagons from a far away old home place, generally in Tennessee, Kentucky, Mississippi, or even North Carolina or Illinois. Some of it had been brought on boats from New Orleans, and

9. Goodspeed: *Central Arkansas,* 577; *Northeast Arkansas,* 140-43, 197.

paid for, with cotton, corn, and other farm products. Little Rock itself, in 1832, was built almost entirely of one and two-room, hewed log houses. Some well known men, as David Walker, lived in a log house almost to the time of the Civil War. Many log school houses, county court houses, and jails were used at the beginning of the Civil War.[10]

Soon after 1819, outside Arkansas Post, some frame houses were built. Some of these, like the log houses, were one story, but the usual type seems to have been the two-story house, with a wide porch and high columns, set back among trees. A wide lawn of grass, shrubs, and flowers lay in front, and reached to the road or river. Some homes often had flower gardens, hothouses, servant quarters, carriage houses, and stables. At a somewhat later date, a few houses were built of brick manufactured with slave labor on the plantation. Little Rock led in the construction of these finer homes. Among the most notable ones were the Ashley house, a two-story brick structure, and the old Crittenden house. All such homes, of course, were furnished with costly furniture brought from old homes in the east or from New Orleans.

An interesting frame house, built in 1855, was considered a marvel of beauty. It was two stories high, seventy-four feet long, and fifty-four feet wide. A wide porch ran the whole length on the front side. All the work of construction was done by the slaves on the plantation, even the sawing of all the planks with cross-cut saws. The several rooms were finished in different kinds of wood; such as walnut, sassafras, and maple.

Various phases of the social, industrial, and political life in the early days of Arkansas history will be treated in more or less detail in other parts of this history, and for fear of too much repetition, little more need be said here.

Nuttall wrote in his journal that the first sawmill on the Arkansas River was erected in 1819, and that there was not a grist-mill in the whole territory. In 1822 Isaac Watkins, of Little Rock, notified the people through the columns of the newly-established "Gazette" that his carpenter had completed a grist-mill that would grind six bushels of corn per day by a little pushing of the horse. If the owner of the mill furnished the horse, the toll was one-fourth; and if the owner of the grain did this, the toll was only one-eighth.[11] But for a long time, especially in remote districts, meal was ground with pestle and mortar; softened corn on the old tin "gritter"; and there were bought steel hand mills that worked like a coffee grinder. The "gritter" or "grater" for the soft corn was made by driving holes through a small piece of tin with a nail or small spike. Then this tin was bent in a bow shape and tacked on a plank or board. The grinding was done by rubbing the ear of corn on

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10. C. H. Brough: *Historic Homes, Publications of Arkansas Historical Association,* I, 292-98. Schoolcraft, 94-100. Laura Scott Butler: *History of Clark County, Publications of Arkansas Historical Association,* 364-65.
11. Nuttall, 118 (169). *Gazette,* June 25, 1822.

the roughened surface. The meal went through the holes in the tin. In the mortar and pestle method, a heavy pestle was sometimes swung on a pole, and worked like an old-fashioned well sweep. The children could work these very well. But often the women spent many laborious hours smashing grains of corn into meal with a mortar and pestle.

The earliest stores were, of course, first established at Arkansas Post. In 1819, and for many years after, such merchants as Farrerly and Curran, Drope, and Frederick Notrebe conducted general merchandise and trading stores at this place. Later, these men, and many others at Little Rock, Batesville, and various other places, bought the products of farmers and hunters and sold them merchandise brought on boats from New Orleans. In 1819, at Arkansas Post, flour sold at $10 per barrel, and above the Post at $12; equal to the price received for a half dozen bear hides. In 1820, Notrebe paid three and one-half cents per pound for cotton, one-half cash, and the rest in merchandise.[12]

Stores were established at Little Rock with the beginning of the town. In 1832 it had large log warehouses for freight and two-story brick mercantile establishments. Batesville had three stores in 1830. Very soon there were stores at Blakelytown, on the Ouachita, Fort Smith, and Pine Bluff. Fayetteville had a store in 1844, if not before. Some stores, especially in northern and western Arkansas, engaged in the old fur and hide business up to the time of the Civil War.

With the coming of steam transportation on the rivers, after 1825 and 1830, prices of groceries and merchandise were greatly reduced. Before the Civil War, in the 'fifties, the price of flour, salt, coffee, and sugar at inland towns, like Batesville, sold for about half the price paid for them at Arkansas Post from 1820 to 1825. At Batesville, in 1859, hams sold at eight cents per pound; flour, $2.50 per one hundred pounds; lard, ten cents per pound; salt, fifty cents per hundred pounds; coffee, fourteen cents per pound; and sugar, ten cents per pound.[13]

In the early territorial days very little stock was sold, and it usually went to market on hoof, generally to Memphis, but even as far as New Orleans. In 1847, $5,000 worth of cattle and hogs were driven to New Orleans from Greene County. Of course, some cattle was shipped on barges, and some few cattle traders later took loads of stock on steamboats. But this was never an important industry.[14]

There were practically no roads in 1819, and there was little improvement for many years after. There were Indian trails, chopped out, or blazed trails, but they were not roads. The people traveled mostly on foot, on horseback, or in boats. The use of barges and keel boats on Arkansas rivers did not begin before the Louisiana Purchase. But these crafts could hardly be taken up the streams. Even after a few steam-

12. Nuttall, 113 (161). *Arkansas Gazette*, January 15, 1820.
13. *Independent Balance* (Batesville), March 4, 1859.
14. Goodspeed: *Northeast Arkansas*, 230.

boats began to ascend the Arkansas and White rivers after 1822 and 1830, rocks, sand bars, snags, and low water made travel and traffic slow and uncertain.

The territorial government and early State government did practically nothing for either roads or schools. So most of the people traveled very little, were illiterate, knew nothing, or practically nothing about either territorial or national government affairs. Many were very poor, and never knew anything about the most common comforts of modern life. When Arkansas became a State, not very many years later, a large per cent. of its adult population was illiterate and unable to learn many things necessary for good citizenship. Self-seeking politicians often misled these people to the injury of the State.

The postal facilities of a people furnish a standard by which to judge their social and economic status. Density of population and the conditions of routes of travel determine very largely the establishment of post offices and postal lines. During the time of early territorial government, Arkansas had few mail routes over which mails were scheduled to be carried weekly, or every two weeks. At that, they came very irregularly. But for a long time Arkansas had a very scattered population, and few passable roads during the winter. Little Rock was still a very small town about five hundred people in 1834; deer and wild turkey sometimes ran through the streets. In 1850 it had only 2,000 people, and Fort Smith had only about 1,000.

No general postal system was established before 1820. Before this time there were several thousand people scattered along the rivers and streams without any organized means of communication with the outside world. Travelers, traders, and immigrants from New Orleans, Tennessee, or Missouri brought all the news. It is no wonder that some people on the Arkansas River above Little Rock never heard of the War of 1812 until it was over. Traces of criminals were soon lost. Men could easily leave home and never be heard of again. Former neighbors in the old states could live near each other for years and never know it. Sometimes these people were overjoyed to run across each other accidentally at county courts, public speakings, or barbecues.

The first short postal route was put in operation by the government about 1817, and ran from Arkansas Post through Little Rock; crossed White River at White River Post Office below Batesville; through Davidsonville, the county seat of Lawrence County; Potosi, Missouri; and to St. Louis. About 1820 another line was established from Cadron down the Arkansas River to Little Rock, and extended to the southwest through Clark and Hempstead counties to Louisiana. This line, with the older one from Little Rock to St. Louis, followed in the main the famous Old Southwest Trail. It certainly traversed by far the most thickly settled part of the territory. About this time, Lawrence County, border-



A PANORAMA NEAR ROGERS AND PEA RIDGE



WATER WORKS PARK AT FORT SMITH



PART OF THE ORIGINAL FEDERAL FORT AT FORT SMITH

ing Missouri, contained about 5,000 people; mostly from Missouri, or who had come through Missouri, down the Old Southwest Trail. To the southwest of Little Rock was Clark County, with about 1,100 inhabitants; farther on in the same direction was Miller County (later abolished) with nearly 1,000; and then Hempstead County, bordering Louisiana, with 2,000 people, mostly centered about Mount Prairie. These counties contained at least three-fifths of the population, which was about 14,250 in 1820-21.

The two large counties along the Mississippi, Arkansas and Phillips, with a population of about 1,200 each, were served by three or four post offices on the river, such as Point Chicot below the mouth of the Arkansas, and Hopefield above the mouth of the St. Francis. Pulaski, which reached from Cadron and Crystal Hill to Fort Smith, and Crawford, which lay south of the Arkansas and extended to the west from the Petit Jean River, with 2,000 and 500 people, respectively, had practically no postal facilities. There were thirteen post offices in 1820, and twenty-two in 1827. They collected postage of various amounts, from eighteen cents at Crystal Springs, to $254.19 at Little Rock. Sometimes the government spent ten times as much to furnish a section of country mail as the total receipts collected there. In 1829 many new lines were established; such as from Little Rock to Memphis, and from Batesville up White River to the North Fork.[15] Batesville never had daily mail until 1859.

At first the mails were carried on horseback entirely. The roads and trails were often made impassable because of floods, washouts, and fallen timbers. The carriers were sometimes robbed, or occasionally drowned. They spent the nights at farmhouses along the way. During the winter of 1835 Little Rock never received mail from Memphis for two whole months. In 1856 Batesville had no mail from Little Rock for several weeks. These two towns during that time received no news from the outside world, because over these routes were carried all the eastern newspapers. Mail stage lines, or coaches and teams, carrying mail and passengers, were established as necessity demanded, or the roads made possible. A line was put in operation between Arkansas Post and Little Rock in 1827, and one reached Fort Smith in 1840.[16]

As to such things as drinking, fights, robberies, stealings, and murders, Arkansas folks were no worse or better than the people in other places living under the same conditions. Drinking, rough-and-tumble fights, gouging of eyes, and stabbing with knives occurred at their dances, barbecues, and other gatherings. Before and just after 1820, people

15. N. B. Williams: *Post Offices in Early Arkansas, Publications of Arkansas Historical Association,* III, 310-21. Pope: *Early Days in Arkansas,* 330.

16. Goodspeed: *Northeast Arkansas,* 453. *Independent Balance* (Batesville), March 6, 1856; February 3, 1859. *Arkansas Gazette,* February 18, 1859. Pope, 29. Herndon: *Centennial History,* I, 511.

guilty of such crimes as murder, horse stealing, rape and arson, were run down by organized posses of citizens, and were beaten or hanged without regular trials. Mob law was used in some sections, where the people lived under pioneer conditions, up to the time of the Civil War.[17] The following news item (and there are many of similar nature) was published in a paper, in 1858: "Still another—a man was found hung to a tree, near Grand Glaize in Jackson County—with a card pinned on his back, on which was written, 'Tennessee Horse Thief.'"[18]

The following incident occurred in the Old Brownfield Tavern in Little Rock, about 1825. A banquet had been given by the leading citizens in honor of some noted visitors. Towards the last of the entertainment and when the most respectable part of the crowd had left, some drunks or half-drunks took possession of the place. One of the party climbed upon the table, and deliberately walked down the middle of it, kicking the dishes right and left. As he reached the end of the table one of the more decent fellows pulled him off. In the scuffle that followed, the fellow that had been on the table stabbed his opponent, and made his escape. He was never caught. Many men, guilty of cold blooded murders, were never punished. Little Rock itself furnished several of these. There are not many records of legal hangings. The first hanging in a "Christian manner" occurred in Little Rock in 1832.

Juries often did not seem eager to convict when the criminals were caught. Governor Pope said, in 1831: "Nothing is more conducive to the insecurity of human life than the practice of [juries] convicting for manslaughter in all cases of ordinary provocation or sudden heat of passion." When there were hangings, as was the case at that time in many places, people would come fifty miles to witness the execution. Men, women, children, and negroes came walking, riding on horses or on oxen, in wagons and in carts, to witness the grewsome spectacles, just as they would go to enjoy picnics and barbecues.[19]

We have many stories of organized bands of criminals, such as the band of seventy-five or eighty robbers, negro stealers, and counterfeiters at the mouth of the Arkansas River about 1810. In such cases, the decent people tolerated the criminals for awhile, and then organized a posse, with the help, perhaps, of sheriffs or deputy sheriffs, and destroyed the criminal organizations, even though it cost a number of lives. The border line between Arkansas and Mexico, before the independence of Texas, was a favorite haunt for murderers and horse thieves.

The Tutt-Everett War, in Marion County, during the 1840's, was quite an unusual outburst of crime and defiance of law and order. It grew out of rivalry in liquor making and politics. This long feud,

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17. Pope: *Early Days,* 102. Gerstaecker: *Streif-und Jagdzuge duch Vereinigten Staaten Nord-Americas,* 292.
18. *Independent Balance* (Batesville), August 26, 1858.
19. Pope, 103, 109. *Independent Balance,* May 6, 1858.

involving two large families, and the county officials, was characterized by numerous fights and murders. It kept the county in a turmoil for about ten years.

Many duels were fought during the first years of territorial government in Arkansas, and they continued to occur up to the days of the Civil War. In parts of the Territory and later State, people continued to live under pioneer conditions. The pioneer had a feeling of self-reliance, and believed that each individual should take care of himself. Some educated, well-to-do people of the day felt that they must have revenge for personal insults. Politicians could not afford to be called a coward at political gatherings, because many people considered the person who had fought a duel a hero. Then, too, the territorial courts, having juries of backwoodsmen, were not entirely to be depended upon to give justice to injured parties.

It is true that the Legislature passed strict laws against dueling, but it was very easy to cross the boundaries into another State or Territory. Most of these duels were fought on a sand bar opposite Fort Smith, or across the Mississippi River opposite Montgomery's Point. They were conducted according to the "code"; the person challenged had a right to choose the kind of weapons to be used and name the time and place. Each principal in the affair had two seconds to see that the regulations were carried out and that no foul play occurred. The surgeon of each party indicated the grim seriousness of the occasion. The usual weapons were pistols; and the two principals usually faced each other, each one with his right foot against a peg, and fired at a given signal. The distance was generally ten steps, seemingly certain death to both parties, when the participants were men accustomed to the use of firearms. Often both parties secretly or openly practiced for the duels. Yet fatalities often did not occur to either party. It leads to a suspicion that sometimes the parties to duels, which grew out of heated political controversies or unguarded mudslinging which seemed to demand this mode of settlement, came to a secret agreement not to hurt each other.

The first well-known duel was fought at Arkansas Post in 1820 between William O. Allen and R. C. Oden. It probably grew out of heated political arguments. Or it may have grown out of a friendly prank played on Allen by Oden at Frederick Notrebe's home. Allen carried a hollow cane in which was kept a small spear or dagger which could be released by pressing a small spring. Oden began playing with it; Allen became angry, and challenged Oden for a duel. It was accepted and Oden was wounded, but, in the act of falling, fired his pistol. The bullet struck Allen in the forehead and he died a few days later. He was considered a man of ability and promise.

The Selden-Scott duel which likewise arose over a trivial matter, ended fatally for one of the parties. In the "Early Days in Arkansas,"

two "cultured, young lawyers," Joseph Selden and Andrew Scott, of "good Virginia families—judges of the highest court in the territory," on a certain occasion attended a whist party, in the course of which Selden contradicted one of the ladies, an act which she considered an insult. Scott demanded that he apologize, but Selden refused. Afterwards, however, he sent an apology through Judge Scott, but meddlers stirred up the matter again and Selden sent a challenge. The duel occurred in Mississippi, opposite Montgomery's Point, and resulted in the death of Selden. The act was a violation of the law both had sworn to uphold. In 1827 John Quincy Adams nominated Judge Scott for a third term on the Superior Court bench for the Territory, but the United States Senate refused to confirm the nomination. One of the opposing Senators afterwards apologized to the President for his vote.[20]

A strange and interesting duel occurred on the streets of Little Rock in 1833. It was between a lawyer by the name of Childers, and a gambler named Stewart. These two men agreed to meet on the corner of Main and Markham streets on a certain day and hour, and take their stand at designated places. Double barrel shotguns loaded with buckshot were to be used first. If these weapons did not prove effective, pistols were to be used, and if by chance these did not put one or both out of the fight, both parties were to draw their dirk knives, and proceed to carve each other until the matter was definitely settled. They met as agreed upon, with their guns loaded and knives sharpened. Strange to say, the shotguns and pistols were fired with little effect. They began to use their knives according to the program, but by this time, Judge Benjamin Johnson, of the Superior Court, and others had arrived. With deputized help, he parted the furious fighters, and placed them under peace bonds; with the intention, perhaps, of protecting the people of the town as well as the lives of the duelists.[21]

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20. *Memoirs of J. Q. Adams,* VII, 222.
21. Pope: *Early Days in Arkansas,* 36-37, 170. Shinn: *Pioneer Days,* 199-201.

CHAPTER VIII.

ARKANSAS INDIANS.

The Indians who have lived within the Territory of Arkansas are the Quapaws or "Arkansas" Indians, Osages, Choctaws, and Cherokees. The Quapaws and Osages were the first occupants of the territory; the Choctaws and Cherokees came later from east of the Mississippi, being forced to migrate by the United States government.

Instead of taking the story of all the Indians chronologically, as is usually the case, each tribe will be briefly described. The Quapaws, from whom the State derived its name, were, as far as our records go, the original Arkansas Indians. Before the days of De Soto, they had descended the Mississippi as far as the mouth of the Arkansas River. They were still there in the days of Marquette and La Salle. One of De Soto's chroniclers said 5,000 or more of these Indians fled from one village, Pacaha. Two hundred years later there seems to have been about 1,500 of them. Several generations later, about 1820, there were a few villages of these people south of the Arkansas River. In 1910, including the half-breeds, 305 were left, all living in Oklahoma.[1]

At the time of De Soto they had chieftains, and tribal organizations; lived in log cabins in villages; and engaged in fishing, hunting, pottery and basket making, tanning, coarse weaving, and farming.

In 1819 Nuttall said the smallpox had killed most of them. Their graveyards seemed a forest of poles on which they hung food for those who had just died. For several nights relatives and friends would gather at these strange burial places to wail and weep for those who had died. They had little or no marriage ceremony, and felt, apparently, no disturbance at separation. Sometimes the man gave his bride a leg of uncleaned venison, and she gave him an ear of husked corn. At the frequent separations, the boys went with the father and the girls with the mother. The unmarried women braided their hair in two plaits, decorated with beads; the "married" ones let their hair go loose, or bound in a single knot behind. They wore moccasins, leggings, breech-cloths, and shirts, sewed into one piece, and slipped over the head. Some wore handkerchiefs around their heads; and had rings in their noses and ears. Their clothing was made of dressed leather or calico; especially after the whites sold clothes for hides and furs. They had feasts and dances; at which were sung songs of love, battle, and death. They lived in fear of spirits and supernatural forces. Heaven was a happy hunting ground. They had, as a rule, a mild, peaceful disposition.[2]

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1. Hempstead: *Historical Review of Arkansas,* I, 55. Herndon: *Centennial History of Arkansas,* I, 53-55.
2. Nuttall: *Journal of Travels into the Arkansas Territory,* 1819, 80-96. Thwaites' edition (1905), 114-35.

In 1818, the Quapaw Indian chiefs and principal warriors went to St. Louis and, after being feasted and given presents, agreed to cede to the United States all their land claims south of the Arkansas River, except a small reservation below Little Rock and Pine Bluff. For the lands ceded, which included much more than their claims in Arkansas, they were paid merchandise worth about $4,000, and they were to receive annually goods valued at $1,000. Indians never owned land individually, and the government considered the tribes had occupation rights and not ownership. The chieftains and warriors decided when to sell or leave a certain territory. So, successful treaty making with the Indians consisted in skillfully distributing presents among these men who came to the place selected for the negotiations. These gifts consisted of plenty to eat and drink, and such things as guns, knives, tomahawks, red handkerchiefs, and bankets to the chiefs, and other influential warriors. Payment for the ceded territory generally consisted of a certain amount of merchandise, money, or both, paid at once, and similar payments covering a number of years. The chiefs were generally given a first payment and pensions. They were bribed to sell the land that belonged to the whole tribe. The government had an agent, who was supposed to reside among them to distribute these annuities, and to adjust matters of dispute between them and the whites, or other tribes. The agents bought the goods from certain merchants; and sometimes the agents and merchants conspired together to cheat both the government and the Indians.

The Quapaw Reservation was triangularly shaped; bounded on the southeast by a line running from Arkansas Post due southwest to the Saline River, then up the Saline to a point directly south of Little Rock, thence north to that town, and down the Arkansas River to the beginning.

Whites and half-breeds, as well as Indians, continued to live on this land, often robbing and stealing from each other. It was an unsatisfactory location for a reservation and contained more land than the Indians needed. In 1824, when the Indians numbered about 450, Robert Crittenden, acting for the United States government, secured a cession of this land. In the treaty making he used about $7,000 worth of merchandise to bribe the Indians to sell the reservation. He gave the Indians plenty to eat and each one a cheap blanket, and flattered the chiefs with bright new uniform coats. They were given $4,000 in merchandise and promised an annuity of $1,000 for eleven years. Crittenden secured the goods from his merchant friends in Little Rock.

The Quapaws agreed to go to Red River and live among the Caddo Indians. It was an unfortunate arrangement for them; floods and rains destroyed their crops, and many died from sickness. Most of the survivors returned under the leadership of Saracen to their old reservation, and lived undisturbed on unsold government land until 1833. Then the remnants of the once populous tribe that had furnished supplies and

slaves for De Soto, entertained Marquette and La Salle, lived peacefully, as a rule, with Spanish, French, and English, and given the State its name, moved to their final home in Indian Territory.[3]

The Osage Indians belonged to the wandering Sioux stock. In the days of Marquette and Joliet they lived in western Missouri; then around 1802, about 2,300 of them came down on the Arkansas and claimed all the territory north of that river. In 1819, Nuttall thought that there were about 8,000 of them in Arkansas. In color and physique, they were probably the finest physical type of the American Indian. The warriors were often six feet tall and well proportioned. They were famous buffalo hunters and in the chase could walk or run sixty miles per day. They loved war, the hunt, and their rough, rude dances. Robbing and stealing from whites and other Indians was a matter of pride among them; but they rarely ever murdered those robbed.[4]

Nuttall said they kept no secrets among themselves, and did not lie to friends or allies. They believed in the immortality of the soul, their heaven was a happy hunting ground; they worshipped a Great Spirit, and appealed to it in battle and thievery. They practiced polygamy; and the man who first married into a family controlled all the sisters of his wife. He could marry them himself, or marry them to others. The women were practically slaves; they made all the clothing and such things as mats, baskets, mattresses, feather blankets, cloaks, and skin bottles.[5] These people were certainly generous and hospitable to friends and Albert Pike called them "The best Indians God ever made."

The Osages, in 1808, through their chiefs and principal warriors, ceded all their land claims north of the Arkansas, as far west as a line which ran from Fort Clark on the Missouri to Frog Bayou on the Arkansas River. In addition to presents, the Indians received in cash $1,200, and $1,500 in merchandise annually. The government also agreed to provide a storehouse for trade with the Indians and to furnish them free of charge a corn mill and a blacksmith shop. The Osages agreed to pay for all property stolen from the whites by their people. Consequently, so many claims accumulated against them that they would have lost their annuities. So in 1818 the Osages ceded all their lands in Arkansas except a small rectangular strip a few miles wide in the northwestern part of the territory. For the land ceded in Arkansas and other places, all claims of damages against the Indians were to be paid by the national government. This enabled them to continue to receive their annuities.

The Osages dwindled in numbers until in 1825 when there were only 1,200 in Arkansas. And still further claims of damages for robberies and stolen property were made to the Indian agent against them by

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3. Herndon, I, 66-68. See also Bossu, *Travels in Louisiana.*
4. Schoolcraft: *Adventures in the Ozarks,* 231.
5. Nuttall: *Travels into Arkansas Territory,* 185-93.

whites and Cherokees. So to liquidate all these claims and continue the annuities, in 1825 the Osages ceded to the United States all their remaining lands in Arkansas.[6]

At this time all the land within the Territory of Arkansas would have been cleared of all Indian claims, had not the United States government adopted the very questionable policy of allowing large reservations for Indians it moved from east of the Mississippi. The Choctaws were the first to come. They were from north Alabama and Mississippi. They had been steadfast friends of the French, and in 1763 some crossed the Mississippi River in order to remain under French control. Others followed from time to time, until 1820, when the government purchased their lands in the East and gave them a reservation in western Arkansas between Red River and the Arkansas. It lay west of a line which ran southwest from the mouth of Point Remove Creek above Little Rock to Red River, three miles below the mouth of Little River. The Quapaws had given up the Territory only two years before this time. Andrew Jackson was a member of the commission that made these arrangements. The Choctaws were less warlike than some tribes, and were the best farmers of the southern Indians. They were considered sullen and unfriendly. They practiced the peculiar custom of flattening their skulls by artificial pressure on the heads of their infants.

This policy of giving the western part of the Territory to the Indians caused much dissatisfaction in Arkansas. Thousands of squatters and hunters lived there. If ejected, they would probably go elsewhere, and Arkansas would lose part of her population. It left only the eastern portion open to settlement, and immigration would be checked. Then, too, trouble would arise between whites and Indians, and between different tribes of Indians placed together within her boundaries.

But the Choctaws remained only five years. In 1825, through a treaty directed by John C. Calhoun, who was interested in gaining the friendship of the white people, these Indians were moved west beyond the bounds of Arkansas. This treaty permanently fixed the western boundary of the Territory and State south of the Arkansas River. The Choctaws have remained fairly numerous, as there were about 16,000 of them in 1900.

The Cherokees, from the southern Appalachian Mountains, were given the first reservation in Arkansas and remained the longer time. For some time exploring parties of these people visited Arkansas and liked the mountains and hills north of the Arkansas River. Then, after having received the permission of President Jefferson, some of them settled about Point Remove, built homes, and began to farm.

In 1817 a United States commission, of which Andrew Jackson and

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6. Herndon, 61, 65-68. Hempstead: *Historical Review of Arkansas,* 55-57. *Publications Arkansas Historical Association,* II, 214-15.

Joseph McMinn, of Tennessee were members, made a treaty with the Cherokees, in which they were to receive as much land in northwest Arkansas as they ceded in Tennessee. Accordingly a large reservation between the Arkansas and White rivers was given them. It lay west of a line which ran somewhat northeast from the mouth of Point Remove Creek to Chataungo Mountain on White River, twenty-five miles above Batesville. The western boundary was not specified. The Cherokees endured much suffering in reaching their new homes; most of them walked the long march of several hundred miles, and sickness, principally cholera, took off many of them. They were not supplied with a sufficient amount of food.

The Cherokees were of the famous Iroquois stock, were manly in appearance, and more readily than was usual among the Indians, took up the manners and ways of the white people. Nuttall, in 1819, found them living in log-house villages, and they had cultivated farms, and owned houses, stock, and furniture. At this time there were distinctions of wealth among them, as a few had slaves, and comfortable, well-furnished homes. One chieftain had several slaves. A number of them were honest and business-like in their dealings. The Cherokees had a form of government which they considered suited their needs. There was a police system, the members of which were paid out of annuities secured from the United States government. Offenders, as a rule, were punished with from fifty to two hundred lashes on the bare back. Their superstitions, belief in spirits and dreams, and treatment of their women were, in the main, similar to that of other Indians.[7]

Now this Cherokee reservation had been ceded by the Osages in 1808, after which they had moved farther West. Hundreds of white people had then settled on the best land. There was no fixed boundary for the Cherokees on the west, and these two tribes were thrown together there in confusion. The Osages and Cherokees were about as different as two tribes of Indians could be. So conflicts were sure to arise between different Indians and whites. Some Cherokees and whites sought the best lands for farming. Hunting parties of Indians and whites ran into each other. And they all stole and robbed. Osages and Cherokees threatened to go to war. The Arkansas Legislature sent memorial after memorial to Congress begging for the removal of the Cherokees, as they had done for the removal of the Choctaws. Some white traders and Indian agents selfishly sought to prevent a removal.[8]

At last, in 1825, the western boundary of the Cherokees was fixed by a line which ran roughly in a northwest direction from some distance west of Fort Smith to near where the White River first cuts the Arkansas and Missouri line. If this arrangement had stopped the trou-

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7. Nuttall, 122-28. Thwaites (1905), 172-79.
8. *Correspondence of Governor Izard, Publications of Arkansas Historical Association*, I, 423-54.

ble between the Indians, it would have been far from satisfactory to the people of Arkansas. Land hungry white settlers, squatters, and hunters wanted the territory given the Indians. Maintaining law and order among whites and Indians, even under the most favorable circumstances, was hardly possible.

Finally after three more years of agitation, a deputation of Cherokee chiefs and warriors went to Washington, in 1828, and agreed to relinquish all claims to land in Arkansas and move to Indian Territory. So with this treaty, all Indian claims to lands in Arkansas were forever extinguished.[9]

The Cherokees, in 1900, numbered 23,000. E. C. Boudinot, John Ross, and the famous Se-quo-yah were noted Cherokees or half-breeds.

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9. Reynolds: *Makers of Arkansas History*, 298 (map). Pope: *Early Days in Arkansas*, 137. *American State Papers, Public Lands*, VI, 375, 389.

CHAPTER IX.

THE ADMINISTRATIONS OF GEORGE IZARD AND JOHN POPE.

In May, 1825, Arkansas Territory received its second governor, George Izard, of South Carolina. His father belonged to a prominent South Carolina family, and his mother was a member of an equally noted New York family, the DeLanceys. In 1792 he graduated at the University of Pennsylvania at the age of fifteen. He took military training in both America and Germany, and, like Miller, he had served in the War of 1812. But his tastes were philosophical and literary; he had few friends; the people called him an aristocrat, and derived much fun from his hobby of collecting razors and shaving with a different one each day. The hurly-burly of pioneer politics never suited his tastes. He brought a large number of books and spent much time in reading. His family never came to Arkansas. He died in Little Rock in 1828. A simple marble slab marks his grave in Holly Cemetery, provided by the people he came to serve, but never understood. But he was honest, and, on the whole, a man of good judgment. His administration was fairly successful.[1]

Governor Izard came to the Territory during the absence of both the acting Governor Crittenden and the secretary. Miller was gone. Izard found difficulty in locating the necessary papers and records needed for his work. Crittenden seems to have carried most of the records he kept around with him. A prominent citizen told Izard that officials were hardly necessary, that everyone did about as he pleased, anyway. Some one told the governor about a few United States vouchers for $10,500 sent Crittenden to pay the annuity due the Cherokees. After locating these, it was found that there was not that much money in Little Rock, so a messenger was sent to New Orleans to exchange the draft for specie.[2]

From another source Izard learned of $3,000 that belonged to the territorial government held by William Montgomery near the mouth of White River. Izard criticized Crittenden for his loose business methods and long absence from his official duties. But Izard himself was late in coming and took a long absence from his official duties for a journey back to New Hampshire. These two men never worked in harmony with each other.

The Legislature of October, 1825, created three new counties; Conway, Crittenden, and Izard, making twelve in all. This shows that the

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1. Pope: *Early Days*, 27-28.
2. Hempstead: *Historical Review of Arkansas*, I, 105.

Legislature was willing to place Izard among the prominent men of the Territory. Minor changes were made in the tax laws and dueling. Certain regulations were made which allowed individuals to erect bridges and ferries and charge the public fees or tolls for their use. The Legislature of October, 1827, was in session, as usual, about one month. More counties were created; as Lafayette, St. Francis, and Lovely. The last was soon abolished. The Legislature continued to create counties with less than 300 or 400 people, in sections of the Territory that had no roads, towns, or public buildings. Some of these counties for years had only log houses for public buildings, and held their county courts in one or two-room log houses. Sometimes the juries retired to the woods or log barns. The courts were held often to consider only three or four cases. Jackson County, when created in 1829, had less than fifty tax-payers. But of county officials at this time, there were supposed to be a sheriff, clerk, county judges, treasurer, coroner, surveyor, and assessors. The country was burdened with officials who had very few duties to perform. Fortunately their pay was small.

The Legislature of 1827 fixed the salary of the prosecuting attorney for the Territory at $200 per year; but it should be remembered that he also received fees from $2 to $8 on all bills, judgments, and convictions he secured. Governor Izard strongly recommended that territorial expenses be curtailed, and the Legislature, to do this, abolished compensation to grand jurors. This was a mistake and was later repealed. An attempt was made to repeal the law which allowed a juror to be challenged if he had expressed his opinion concerning the innocence or guilt of the parties being tried. A law was passed which allowed only twelve challenges of jurors in all cases of felony, except the capital ones. It was also provided that slaves should no longer be sold for debts or judgments on writs issued by justices of the peace. This kind of property was given the same protection as real estate.[3]

Two noted duels grew out of the heated election of 1827. They are described here because of the prominence of the men who engaged in them, and the information they give of the political conditions of the times. Political contests were generally conducted on a low plane of vile abuse and mud-slinging. This was true of both the joint political campaigns between candidates and the articles written for the newspapers. Skunk, scoundrel, and thief were mild terms compared to some that were used.

One of the duels was between Ambrose H. Sevier and Thomas W. Newton. Sevier was one of the leading men in Arkansas at the time. He was born in 1801 in Tennessee, and was closely related to John Sevier of Revolutionary War fame, the State of Franklin, and early Tennessee

3. Steele and McCampbell: *Laws of Arkansas,* 328-29, 350-51, 483-84.

history. Sevier received a common school education. At the age of nineteen when his parents died, he came to Little Rock. He began to study law, or absorb it around Little Rock. When twenty years old he was made clerk of the Legislative Assembly. At twenty-two, in 1823, we find him a full-fledged lawyer, and a member of the Legislature from Pulaski County. In 1827 he was elected speaker of the House. About that time Henry W. Conway was killed in a duel with Crittenden, so Sevier became the leader of the Jackson-Democrat faction in Arkansas. From 1827 to 1836 he was constantly a delegate to Congress. After 1836 he served the new State in the United States Senate. He died in 1848, at the age of forty-seven.[4]

Thomas W. Newton belonged to the Whig-Crittenden faction. He was not as prominent as Sevier, or as able, but he held many important official positions under both the territorial and state governments. He was the only Whig member of Congress Arkansas ever had. He came to the Territory from Virginia when only seventeen years of age. For awhile he carried the mail between Cadron, Little Rock and Arkansas Post. He, too, studied law, and cultivated the friendship of such men as Crittenden and others. In the press Newton defended Crittenden and abused Sevier; this was done, as usual, under a *nom-de-plume*. Sevier, in a heated discussion at a barbecue, declared he would fight any man who wrote the articles. It was soon known that Newton was the author. The challenge was given by Sevier and accepted by Newton.

The place selected was Point Remove, the weapons were pistols, at the usual ten paces. They both fired but missed each other, but whether or not purposely, no one knows. After thus showing their courage and manliness according to the code of the day, through the intercession of friends, they shook hands and remained personal friends and political opponents. And the constituents of both could declare that their leader was a man of courage and honor.[5]

A short time after this bloodless encounter the most famous and most tragic duel in Arkansas history occurred. It, too, grew out of the political and factional contest of 1827. The Democratic candidate for delegate to Congress was Henry W. Conway, and the "Whig" or Crittenden candidate was Robert C. Oden. Conway, while in Congress, had been entrusted in 1824 with the carrying of $7,000 appropriated to bear the expenses of the Quapaw Indian treaty. Crittenden was appointed commissioner and Conway secretary of the proceedings. Conway, they both admitted, kept for awhile, $600 for his own use. Nothing was said or done publicly about the matter for about two years, until Crittenden opposed Conway's election to Congress. Bates had opposed Conway in 1825. Conway

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4. Shinn: *Pioneers, etc.*, 209-11.
5. Shinn, 190-94. Pope, 38-39. Herndon: *Centennial History of Arkansas*, 980.

claimed that he kept the money with Crittenden's knowledge and approval. This Crittenden flatly denied. Conway claimed he repaid the money to the United States Government. The discussion was carried on with the usual bitterness. It is a rather sad commentary on the leadership of the day, even if both told the truth, or if only one lied. Or did both lie to win the election? Oden was badly beaten in the election; which may indicate that the people had more confidence in Conway than in Crittenden. That was not the only issue, and people in those days did not demand the same honesty and integrity on the part of public officials in the discharge of their duty as they do today.

Crittenden publicly called Conway a thief and a coward, and finally sent him a challenge. It was accepted. They met opposite Montgomery's Point on the Mississippi. They used pistols at the usual ten paces. Crittenden, having arrived very early, was able to lie down and sleep until the rest of the party arrived. At the first fire Conway was mortally wounded. Conway's bullet struck the lapel of Crittenden's coat.[6]

In the election that followed, to fill the vacancy in Congress caused by Conway's death, several candidates presented themselves. The contest was really between A. H. Sevier and Richard Searcy. Searcy was a native of Tennessee, moved to Batesville about 1830, and became the leading lawyer in that section. He belonged to the "Whig" faction, but was not dictated to by Crittenden. Sevier, now leader of the Democratic faction, was easily elected. In these contests, not so much based on policies or principles, we have the "outs" against the "ins;" and the stakes were the political offices, both federal and territorial. There were able and daring politicians in those days; and some few were men of real ability, education, and character.

Governor Izard believed that the removal of the Quapaws and the Cherokees should be done at once, and he did a great deal of work trying to secure its accomplishment. The Quapaws were removed in 1826, and the Cherokees in 1828, as already noted. The Assembly of 1828 was called in a special session to make arrangements for the government of the newly secured territory because the country was full of squatters. The Legislature divided the whole Territory of Arkansas into four superior court circuits instead of three, as there had been before this time. For some time the Legislature had asked for this additional judge, but Governor Izard had not thought that the additional judge was needed. These judges held only one annual court at Little Rock, and then spent several weeks on one of the circuits.

The Legislature and Governor Izard never worked in harmony, especially during the last part of his term. He told the assembly once that it spent too much time discussing irrelevant matters; made its sessions too

6. Pope, 40-41. Herndon, I, 175-76.

long and too expensive. The Legislature replied that a dictatorial attitude on the part of the governor was not consistent with the rights and liberties of a free people, and that it should have the unhampered privilege of deliberating as long as it wished on all matters of a public or private nature.[7]

Governor George Izard died November 22, 1828, and John Pope of Kentucky was appointed by President Andrew Jackson to fill his place. Pope was one of the ablest, most upright territorial governors ever sent to the territory and his coming strengthened the Jackson-Democrat faction. Crittenden acted as governor during the interval between Izard's death and Pope's arrival.

John Pope was born in Virginia in 1773. He completed both the literary and the law courses at William and Mary College. He began the practice of law at Lexington, Kentucky, in 1794. He served in the State Legislature as a colleague of Henry Clay. He was United States Senator from 1807 to 1812, and was then defeated because he had opposed the War of 1812 so brilliantly advocated by his great contemporary, Clay. In a heated contest in 1816, Clay beat Pope by only ten votes. This opposition to Clay endeared Pope to Jackson and his party.[8] His wife was a sister of the wife of John Quincy Adams, but the two families were political enemies, so this further endeared him to Jackson.

William S. Fulton, of Alabama, another friend and supporter of Jackson, was made secretary to succeed the Whig, Crittenden. But by now Crittenden had a large law practice, owned a great deal of property, and had a large political following, consequently he did not leave Arkansas.

In his first message to the Legislature, October 13, 1829, Governor Pope emphasized the need of internal improvements and the material development of the Territory. He said there was an urgent need of better road connection between the interior and the Mississippi. Congress had already spent $24,000 on a road from Memphis to Little Rock, and $15,000 in 1825-27, for the continuation of this road to Fort Smith. It answered for a military road between these points, but its upkeep and repair was turned over to the territorial government. But the Legislature had failed to do anything, and Pope recommended that the road be assigned to a company to keep in repair by charging tolls. Nothing was done. The Territorial Legislature supported neither roads nor schools by public taxation. The cost of political administration absorbed all the money raised by taxation.

Pope urged the construction of suitable buildings for the administration of the territorial government. The ramshackle old building erected

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7. *Correspondence of Governor Izard, Publications of the Arkansas Historical Association,* I, 434, 446. Steele and McCampbell, 134-35, 538. Herndon, I, 177.
8. Hempstead, I, 115.

by Amos Wheeler and his associates in order to bring the capital to Little Rock had become dilapidated; the roof was full of leaks. The last two Territorial Legislatures, in 1833 and 1835, held sessions wherever they could secure room and dry quarters. Governor Pope in his first message gave the Legislature a constructive program, but they did little to carry it out.

The Assembly made provisions for the election by the people of some county officers, as the sheriff, surveyors, and judge. The governor appointed the territorial auditor and treasurer. The Legislature, by joint ballot of both houses, elected the county justices. More counties were created, such as Hot Springs, Jackson, Jefferson, Monroe, and Union. The names suggest the political complexion of the Legislature. This Legislature established a county court system for the first time, and again provided compensation for grand jurors. It provided the death penalty for all persons, male or female, who stole a horse, mule, or negro, and for all those who gave aid to such criminals. Standing in the pillory, paying a fine, and being given lashes on "his or her bare back" was still on the statute books for petty larcenies. A law was passed providing a fine, imprisonment, and disbarment from holding office for all those convicted of election frauds. The first law against gambling was passed; it forbade faro banks and other species of gambling.[9]

At the beginning of Pope's administration, another newspaper, a Whig organ, was published to trouble further the political waters. It lambasted Pope and all his officials, and told these westerners how "Jeffersonian heresies were further aggravated by Jacksonian degeneration."[10]

The legislative session of 1831 was one of the stormiest held during territorial days. It grew out of the efforts of one of the leading politicians and some of his colleagues to rob the Territory of several thousand dollars. After the Legislature failed to appropriate money to build a suitable State House, Governor Pope and A. H. Sevier did all they could to secure an appropriation of government land for the purpose. Governor Pope went to Washington and, because of his friendship with Jackson, his wide acquaintance there, and his first-hand knowledge of how appropriations were secured through Congress, he obtained a grant of ten sections of land (6,400 acres) for the purpose of erecting the necessary government buildings. It could be selected from the best unappropriated government land. The disposition of this land came before the October session of the Legislature, 1831.

Robert Crittenden, the former secretary and big Whig boss of the Territory, in 1827, had erected a two-story brick house, or "mansion" for a residence, which after many changes has since come to be known

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9. Steele and McCampbell, 191, 175.
10. Hempstead, I, 111.



OLD FORT SMITH, BUILT 1830, DESTROYED DURING CIVIL WAR

as the Johnson place. During the August election, Crittenden had been interested in the selection of men to the Legislature who would favor the exchange of his "Big House," as it was called, to be used for government purposes, for the ten sections of land donated by Congress to construct these buildings.

On the first day the Legislature met a joint committee was selected to report a plan for the location and disposition of the ten sections of land. With the exception of Terrence Farrelly and former Judge Andrew Scott, the men on the committee were of no special prominence. Scott and Farrelly were Clay-Crittenden men. Farrelly was a Little Rock merchant and had been associated with Crittenden in treaty making with the Indians.[11] The committee had three proposals to consider; the one by Crittenden, to exchange his house and annexed buildings for the ten sections of land; another, by William Ball, a land speculator, who offered to pay $10,000 for the land, to be selected in parcels not exceeding a quarter section in size; and a third, by Chester Ashley, who offered to give his house and adjoining lots for the land. He later offered to erect a government building, not to cost less than $12,000 for the ten sections. But the committee was "sold" on the Crittenden proposition. It stated that the Assembly needed a house at once, and that it would be saved the expense of disposing of the land. The measure passed both houses by a majority of nearly two to one.

But Governor Pope vetoed the bill. He stated that Congress made the donation to enable the Territory to secure a suitable State House, and not a dwelling house as a temporary arrangement. He said further that the Crittenden property was not conveniently located, and was of much less value than the ten sections of land. The Assembly could not muster the two-thirds vote to over-ride his veto. But for political effect, it sent a memorial to Congress praying for the privilege of electing the governor. It was also stated that Pope used his influence in "checking their independence, marring their wisest plans, and thwarting their dearest interests." He was declared to be irresponsible and ignorant of the wishes of the people.[12]

This matter received attention of Whig and Democrat papers outside of Arkansas, the former condemning Pope, and the latter applauding him. The Kentucky "Gazette," a Jackson organ, in defending Pope, severely denounced what it called "political methods, cliques and factions," in Arkansas. "A band of desperadoes . . . . blackguard and browbeat every man who has sufficient self-respect . . . . to oppose their inter-

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11. Shinn: *Pioneers*, 73-74.
12. Herndon, I, 187-88. The best commentary on this matter is the fact that in 1833 Pope sold the land for $31,722 and Crittenden's house was sold for $6,700.

ests." "Mr. Conway was hunted like a wild beast and was at length killed."[13]

Congress now authorized Pope to superintend the selection and the disposition of the grant, and direct the construction of the capital buildings. And he did it well. He sold this well selected land at $5 per acre.

The actual construction of the territorial administration building did not begin until 1833. Gideon Shyrock and George Weigart, who had experience in such work in various states, were the architects. Chester Ashley, R. C. Byrd, Joseph Henderson, A. H. Sevier, and William E. Woodruff contributed $400. William Russell, remembered for his connection with the moving of the capital to Little Rock, sold three lots and donated three. He still hoped that the little town would have a rapid growth. Pope and Sevier secured from Congress an additional 1,000 acres to aid in the construction of a courthouse and jail. In 1835 the Legislature petitioned Congress for enough land to furnish the main building.[14] In 1836 Congress made an additional grant of five sections for the completion of the capitol, and they are said to have been sold for $38,000. By this time the main structure had changed from a territorial building into a State House. But it was not finished until 1840, after the State Legislature had appropriated $37,000 for the purpose. It was used for the State Capitol for over half a century.

The Legislature of 1833 continued its dabbling with the public school problem which had been raised by the Assembly of 1829. For the endowment of common schools, the Territory had received the sixteenth section in each township. The Act of 1829 provided that these school lands could be leased by trustees in each township, if the people petitioned them to do this. The great majority of the people were indifferent about the matter. And the Legislature in 1831, seemingly fearing that too much had been done, provided that no township trustees for school lands should be appointed by judges of county courts, unless a majority of the whole people in the township petitioned that they be appointed. No Territorial Legislature did anything more for education, and certain individuals continued to use the lands illegally and the people did without public school opportunities. In 1827 Congress made a donation of seventy-two sections of land to support a university, but its disposition was left in the hands of the Legislature. Nothing was done.[15] Izard and Pope often urged the Legislature to do something for education and schools.

In 1833 there was a very lively contest over the selection of a delegate to Congress. The leaders of the two parties, or factions, Robert Critten-

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13. Herndon, I, 189-90.
14. *American State Papers, Public Lands,* VIII, 246.
15. Steele and McCampbell, 509, 512. Reynolds: *Publications of Arkansas Historical Association,* III, 258-59.

den and A. H. Sevier, were the candidates. Crittenden was a fine orator and good politician; Sevier was witty, an able speaker, and made a better appeal to the people. Pope and Ashley supported Sevier. Neither candidate supported any platform or principles; the acts and policies of Pope's administration and Crittenden's efforts to secure the capitol lands were mostly discussed. Out of a total territorial vote of about 7,000, Sevier received nearly 4,500 and Crittenden about 2,500.[16]

In 1834 Congress appropriated $3,000 for the compilation and printing of the territorial laws and statutes. In 1833 John Steele had started an administration, or Pope, paper at Helena. So Pope now gave the state printing to Steele. Woodruff, of the Arkansas "Gazette," had enjoyed these printing jobs so long that he had come to look upon them as a matter of deserved right and privilege. The "Gazette" stated that the "Governor treated us rather shabbily."[17] Thereafter it fought Pope bitterly although before this time the paper had been very helpful to Pope.

Pope and Izard were the only territorial governors who supported policies or plans for the general welfare of the people. Izard is particularly remembered for his honesty and aid in securing the removal of the Indians. Pope also was a man of character and integrity, and remembered for his encouragement of internal improvements and the saving of the Capitol lands, which made the building of the Capitol possible. It still stands as a monument to him, though now called the "War Memorial Building."

16. Pope: *Early Days*, 160-62. Herndon, I, 191-99.
17. *Arkansas Gazette*, July 10, 1834; August 26, 1834.

CHAPTER X.

LAUNCHING THE NEW STATE.

After having made a good and courageous Governor, John Pope returned to Kentucky. Then, in 1835, President Andrew Jackson appointed the secretary of the territory and his personal friend, William S. Fulton, as chief territorial officer.

Fulton was born in Maryland in 1795. He had received a college education, studied law, and moved to Nashville, Tennessee, at the age of twenty-one to begin the practice of his profession. There he became a friend of Andrew Jackson. Sometime later, Fulton went to Alabama. From there he became Jackson's private secretary during the Seminole Indian War. A few years afterwards he and his father published a paper to defend his great hero friend. About this time Jackson wrote Fulton, "You can count on my friendship." So his political fortune was made.

Lewis Randolph, Fulton's secretary, was also a personal friend of Old Hickory. He had married "Pretty Bettie Martin," a relative of Jackson, and for a while a belle of the White House. Randolph died in Arkansas and his widow later married Jackson's adopted son.[1]

When Fulton first came to Little Rock he wrote: "We find a highly respectable population, and a pretty little town instead of the horrible place Little Rock had been represented to us as being. . . . . Matilda [his wife] says she finds the female society here equal to any she has ever been acquainted with." His brother, Doctor John Fulton, wrote: "This town contains from 250 to 350 inhabitants; most of whom receive their support from the means furnished by the government to her officers."[2]

Fulton's administration was soon ended by the admission of Arkansas into the Union. His ability, capacity to make friends, and influence with Jackson and his supporters, enabled him to enter the United States Senate from the new State.

In 1830 the population of the Territory was over 30,000, about 25,000 white and 5,000 colored. At that time Ambrose H. Sevier opposed statehood on the ground that there was not a sufficient population to support a State government. But in 1833, after the capitol episode and later the complete defeat of the Crittenden forces, Sevier, the delegate to Congress, suddenly, on December 2, 1833, sponsored a bill for the purpose of taking a census in Arkansas in order to find its eligibility for statehood.

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1. Hallum: *Biographical and Pictorial History of Arkansas,* 211.
2. Hallum, 193.

The population from 1830 to 1840, according to the United States census, grew, in round numbers, from 30,000 to 97,000. Advocates of this movement were justified in saying that if the territory did not have enough people for statehood in 1833 that it soon would have.

Then, too, the Legislature of Arkansas, the Presidency of the United States, and the House of Representatives were in the hands of the Democrats. It was a favorable time for getting a bill through the House for the admission of a slave State and for the election of Democrat Senators from Arkansas. The movement could secure powerful support. Sevier put forward the measure without the matter being urged by the people back home.

Michigan had also just applied for admission to the Union. For years slaves states and free states had entered the Union in pairs. No pairs had come in since Missouri and Maine in 1821. It was said, too, that Florida might ask to pair with Michigan for admission. If this happened, Arkansas would have to wait for Wisconsin, and that territory was not expected to be ready for years. Abolition sentiment was growing rapidly in parts of the North; anti-slavery sentiment was growing in the House, and all remembered the contest over Missouri. True, Arkansas was south of 36° 30′, and, according to the compromise of 1820, would be allowed to come in with slaves, but who knew that future Congresses would be bound by the acts of past ones? Sevier and many others in Arkansas were now large slave holders, and these men wanted Arkansas admitted to the Union with a Constitution that would protect slavery and slave interests.[3]

During January, 1834, bills sponsored by Jackson men were introduced into Congress for the purpose of allowing Arkansas and Michigan to form State Constitutions preparatory for admission. Clay, Webster, and Calhoun voted to table these measures. Clay and Webster were Whigs, and Calhoun was not at the time working with the Jackson leaders. Similar bills were introduced in December, 1834, but the forces opposed to slavery and the Jackson party managed to kill the measures. Sevier thought that some members in Congress wanted to admit Michigan without admitting Arkansas.

The people in Arkansas now began to take an interest in the matter; some were very much in favor of statehood, and others strongly opposed it. The cause of this disagreement was both political and economic. The political machinery was in control of the cotton-growing, slave-owning portions of the Territory. The members of the political faction or party in control belonged to the Democratic party, which principally through various officeholders, exerted a strong influence in all parts of the Territory. The north and northwest, under the leadership of such men as David Walker, of Fayetteville, hoped to build up a strong Whig party

3. *Arkansas Gazette,* January 21, 1834.

and secure more influence and direction in territorial affairs. This task would be much more difficult if Arkansas became a State and formed its Constitution under the direction of Sevier and the Democrats in the other part of the Territory.

David Walker was a shrewd, honest, determined leader. He was a native of Kentucky, and, like many other men of his day, had come to Arkansas to seek his fortune. He was a self-educated man.

The opponents of admission into the Union claimed that there were hardly enough people in the Territory for statehood, that is, 60,000 inhabitants; and that there was barely enough money secured by taxation to meet the expenses of territorial government at a time when the United States treasury paid a large part of the expenses. The matter should be delayed, they said, until there should be sufficient wealth and population to support State government. Walker's northwestern part of the Territory was now growing very rapidly in population and influence. Delay, it was claimed, would enable the national government to finish necessary internal improvements already projected. It was very likely that the northwest expected more aid in securing the much needed roads under national direction than from the State under eastern and southeastern control. It was also declared by the opponents of statehood that the whole matter had been hatched in Washington to aid the wealthy slave owners and the fortunes of the Sevier and Conway families. Not over one family in twenty had slaves, it was stated, and that the many should not be heavily taxed for the benefit of the few.

The advocates of statehood called attention to the growing population and wealth of Arkansas; the uncertainty later of admission with a Constitution guaranteeing slave property; the dangers of delay; and the increased influence and prestige that statehood would give. These people seemed really much alarmed at the growing abolition sentiment in the North and the opposition to slavery in Arkansas itself. Thousands of people without slaves and opposed to slavery were settling in the western and northwestern part of the Territory.[4]

Meanwhile, as had been the custom since 1823, the sheriffs were taking the biennial census, more or less accurate, at a compensation from one to three cents per inhabitant. Some men urged Governor Fulton to call a special meeting of the Legislature for the purpose of having that body order a special election to select delegates to a constitutional convention; and this convention was to frame a State Constitution and then boldly ask Congress to take Arkansas into the Union as a matter of right and justice. In April and May, 1835, Michigan did this; so Sevier and others declared that Arkansas must do likewise. They declared that the ordinance of 1787 provided for the admission of states as soon as the requisite population was reached, and that the terms of the Louisiana

4. *Arkansas Gazette,* March 31, 1835.

treaty provided that the inhabitants of ceded territory "*shall* be" admitted "as soon as possible according to the principles of the Constitution."[5]

It was thought best by Sevier, Woodruff, Ashley, and probably Fulton, that the movement for the calling of a convention should have the appearance, at least, of coming from the people. During June and July, being incited to do so by the "Gazette" and various persons, the friends of statehood held meetings in many places and passed resolutions calling on the Governor to convene the Legislature in special session to pass the necessary acts for holding a constitutional convention. Some of the resolutions passed contained rather amusing things. The struggle for statehood was compared to that of 1776; the people were asked to throw off the yoke of territorial bondage and to emerge into the light of civil liberty; and to remain no longer bondsmen, or hewers of wood and drawers of water. The opponents of admission likewise held meetings and passed resolutions opposing a special session of the Legislature and condemning the whole movement for statehood.

The Governor did not convene the Legislature, but those favoring admission were equal to the emergency. The "Gazette," May 26, suggested that the election clerks make provisions in their poll books for the people, at the general election to be held on the first Monday in August, to express their approval or disapproval of calling a convention. Accordingly the matter was voted on by about 2,800 people (out of a population of nearly 60,000) scattered over thirty counties, and a great majority of those voting favored the convention.

The day after the election Governor Fulton had an article in the "Gazette" opposing the calling of the convention before being authorized to do so by Congress. He said that his principles, interests, and feelings inclined him to favor the wishes of the people, but that his sense of duty, oath as Governor, and his opinion that for a Territory to call a convention before being authorized to do so by Congress was unlawful, all compelled him to refuse to call a special session of the Legislature to make provisions for a constitutional convention.

The convention measure immediately passed the regular Assembly, October 23, 1835. Governor Fulton did not veto the bill to give it the test of a two-thirds vote over his disapproval, but merely let it go into effect without his signature. He declared that the Legislature had no power to pass it, and he had no authority to sign it. He did, however, send to the Assembly an opinion of the Attorney-General of the United States in which was stated the belief that the people had the right to assemble in meetings or conventions for the purpose of petitioning Congress for statehood. They had the privilege, also, of accompanying this petition with a Constitution agreed upon by representatives chosen by the people. He had stated, however, that the Territorial Legislature, as

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5. *Arkansas Gazette*, May 26, June 2, 9, 16, 1835.

a creature of Congress, had no right to pass a law creating a convention to frame a Constitution. So while the administration and the Jackson party might gently close the front door against statehood for Arkansas, entrance by the back door was made plain.[6]

The bill passed by the Legislature authorizing the constitutional convention set the time for the election of delegates to it the second Monday in December, 1835. On January 4, 1836, the convention met in the town of Little Rock and held its meetings for the most part, at least, in a hewed log meetinghouse which belonged to the Baptist church.

Most of the provisions of the new Constitution were agreed upon without much debate.[7] The balancing of legislative power between slaveholding and party machine interests, confined chiefly to the southeastern region, including the rich level bottom lands along the rivers, and the hilly non-slaveholding and Whig interests, principally in the west and northwest, was the most difficult problem. The former party was accused of planning to provide by constitutional enactment the permanence of slavery, and the legislative control of the State. This legislative control would prevent the levying of taxes to provide free schools for populous, poor districts, and for the construction of roads into heavily populated but light tax paying west and northwest. This section now had about two thousand more white people than the other. The northwest was rapidly increasing in population; there was already some opposition to slavery there, and no one knew to what exent it might grow. Then, too, the direction of the controlling party machinery in the Territory was in the hands of a very small group of slaveholding, tidewater families. They very much desired, of course, a continuance of this control. Party leaders and constitutional conventions in older states like Virginia, North Carolina, and South Carolina, had recently shown some Arkansas leaders how all these aims could and should be accomplished.

The legislative committee of the convention was appointed by the chairman, John Wilson, of Clark County. This committee soon reported a plan of representation in the legislative department which would give the southern and eastern counties eleven State Senators and the north and northwestern counties only eight. The majority of this committee, appointed geographically, represented the north and west, but in reality the majority did not favor the interests or the policies of that section. James Woodson Bates, who had moved to Crawford County, was the chairman. The other members of the committee were: Mark Bean, Washington; John Clark, Chicot; William Cummins, Pulaski; Clarence Farrelly, Arkansas and Jefferson; John Lafferty, Van Buren; Joseph W. McKean, Sevier; John Ringgold, Independence; Charles R. Saun-

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6. Jesse Turner: *The Constitutional Convention of 1836, Publications of Arkansas Historical Association,* III, 95, 104.

7. The *Journal of the Proceedings of the Convention* is comprised within 52 pages and gives very meagre information.

ders, Izard; and Thomas J. Lacy, Monroe. So, geographically, there were six members from the northern and northwestern counties, and only five from the southern and eastern counties. But during the convention only four of these men, Walker, Bean, Lafferty, and Saunders, consistently supported the non-slaveholding interests, or those measures sponsored by that section of country. Ringgold, of Independence, McKean, of Sevier, and Bates, of Crawford, voted with the south and east at the pinches. The reason was that they were slaveowners who farmed rich bottom lands which lay along rivers up in the hilly non-slaveholding region.[8] Their lands produced fine crops of corn and cotton. Bates, for instance, was a Whig, and geographically from a non-slaveholding section, but he now owned slaves and a farm of rich bottom lands on the Arkansas River in Crawford County. This probably accounts for his chairmanship of the committee and his desertion of the interests of the northwest a number of times during the convention.[9]

After a heated debate of several days on the plan of representation first proposed, the chairman of the convention appointed a special committee of five. This committee, almost four to one, geographically, represented the north and west, but the majority of its members, like the first committee, in reality favored the slaveholding interests. The compromise it reported gave the south and east control of the Senate for the time being. But it provided that the Senatorial districts should be reconstructed every four years, beginning with 1838, on the basis of the free white male inhabitants. This redistribution of the districts was placed in the hands of the Legislature and the Governor. Washington, a very strong non-slaveholding county, was allowed two Senators. The compromise plan agreed upon by the convention left the slaveholding interests in control of the State government up to the Civil War.[10]

The convention voted down a measure to make ministers ineligible for the office of Governor. It refused to provide that the malicious murder of a slave should be punished the same as that of a white man, but did provide that slaves prosecuted for crimes should have an impartial jury. The General Assembly was empowered to require humane treatment of slaves. It refused to enact that the stockholders in banks established by the State should be individually and collectively responsible for the debts of the banks. If this clause had been enacted, the State would not have later suffered great losses through banks established by the Legislature. The convention refused to provide for elections by ballot.[11]

The Governor was given the veto and pardoning powers; the Legislature could not emancipate slaves without consent of the owners; atheists could not hold office or take an oath in court; one kind of property

8. *Publications of the Arkansas Historical Association,* III, 112, 113, 114.
9. *Ibid.,* 98.
10. *Ibid.,* 315, 316.
11. *Ibid.,* 124, 111.

could not be taxed higher than another; no greater amount of revenue could be levied than was required for the necessary expenses of the government except by a two-thirds majority of both houses of the Legislature; no poll tax was to be levied except for county purposes; no lotteries were allowed.[12] It was provided that the Legislature in joint session would elect for a term of two years, a Secretary of State, Auditor, Treasurer, and Attorney; and for a term of eight years, the Justices of the Supreme Court and Circuit Courts. The Legislature was to meet biennially, and it considered the election of these officers an interesting and important part of its work.

David Walker refused to sign the Constitution.

C. F. M. Noland, of Independence County, a lukewarm Whig, editor, writer, humorist, lawyer, politician, was selected to carry the Constitution to Washington for the use of Congress. His compensation for the trip was $500.[13]

The Congressional delegate, Sevier, did not wait for Noland's long delayed arrival, but presented copies of the Constitution received through the mail. When the official copy at last arrived, Sevier was annoyed to find that it was addressed to the Secretary of State instead of to himself.

Sevier feared a long discussion over slavery. He thought that the Constitution might have to be amended before it could pass. James Buchanan, of Pennsylvania, and Thomas H. Benton, of Missouri, both of whom enjoyed the confidence of the southern Democrats, sponsored the bills for the admission of Arkansas and Michigan, respectively. These two men and Silas Wright, of New York, all strong Jackson men, fought zealously for the admission of Arkansas. Many members of Congress, especially in the Lower House, opposed the admission of Arkansas because its proposed Constitution guaranteed slave property to the owners, even though a majority of the people and the Legislature might wish to abolish it in the State. Slaves could not be emancipated without the consent of the owners. Much was said about Arkansas not waiting for a Congressional enabling act before forming its Constitution and asking for admission. But this was a mere pretext; the opposition came from the opponents of the administration and of slavery.

The Senate soon passed the act for the admission of Michigan, and on April 4, 1836, by a vote of thirty-one to six, voted for the admission of Arkansas. Stormy debates ensued in the House, especially over the slavery clause. Admission was finally carried after a single session of twenty-five hours. President Jackson approved the bill, June 15, 1836.[14]

This congressional enabling act for the admission of Arkansas provided that it should have only one representative in the House of Representatives until after the census of 1840, and that it should not levy any tax on the public lands within her borders, or interfere with their

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12. Constitution of Arkansas, 1836. Gould's *Digest,* 39, 43, 47, 49.
13. Hempstead, I, 131-35.
14. T. H. Beuton: *Thirty Years' View,* I, 627-38.

distribution. The sixteenth section of the land in each township was to be reserved for schools, and five per cent. of the proceeds derived from the sale of the public lands was to be used for the construction of roads and canals under the supervision of the Legislature. Bounty land given by the United States government for military services during the War of 1812 was to be free of taxation for a term of three years after it had been patented by the claimants. The new State received from the Federal government five sections of public lands to complete the State House. Its selection and disposition was placed under the direction of the Legislature.

Candidates for offices under the new State government were soon busy. Under State government there was a nearer approach to real political parties than there had been during territorial days. The political names of Whigs and Democrats came into proper use. Still the policies of both, and especially the ruling Democratic party, was directed by an officeholding, family-connected machine. This machine, composed principally of members of the related Johnson-Sevier-Conway families, secured the lion's share of the offices from 1836 to 1860. From these families and their relatives came many Governors, Senators, judges, and various State officers. James and Elias Conway were the most prominent Conways, and Benjamin Johnson and Robert W. Johnson were leaders of that family. Able friends of this strong political organization had their political fortunes made.[15] Other prominent members of this party were Chester Ashley, W. E. Woodruff, R. C. Newton, and Archibald Yell. The old Whig leader, Robert Crittenden, had died in 1834. Some of the leaders of this party from 1836 until it dissolved during the early 'fifties were Absalom Fowler, William Cummins, Albert Pike, David Walker, and R. C. Oden.

The method of nominating men for the various offices during the days of early statehood made machine control easy. The leaders of the two parties met on appointed days in the townships and selected delegates for the county conventions. Here the candidates for the county offices were selected, and delegates appointed to district and State conventions. At these conventions the Congressional and gubernatorial candidates were nominated. Sometimes notices of township and even county meetings were sent from headquarters to certain leaders only a few days before the time set for the convention.

In the conventions the men to be nominated for chairmen, secretaries, and members of various committees, were generally arranged by the leaders before the meeting. The chairmen had a list of those members to be recognized for speeches and nominations. Resolutions of various committees were generally written by men slated for this work before they came to the conventions. In one instance the Committee on Reso-

15. Hallum: *Biographical and Pictorial History,* 42-44.

lutions was out only a few minutes and returned with a well written report that filled several columns in a newspaper. The convention was sometimes called a "caucus of tricksters" and an "incubus."[16]

After the leaders had secured the nomination of the men they wanted for the offices, they began to stir up interest among the people for the candidates. The favorite method, and no doubt the best, was to arrange barbecues and speakings. The barbecues would bring the crowds, and the spell-binders were supposed to do the rest. Hogs and cattle cost little, and the meat could be cheaply and easily roasted over hot coals in a shallow trench. Bread, too, was baked at small cost. The speaking lasted sometimes for hours, both in the morning and afternoon. At times rival candidates appeared; and mudslinging and jokes were immensely enjoyed by the majority of the listeners. Some of these barbecues and speakings were long remembered.[17]

During April, 1836, before the admission of Arknasas into the Union, more or less irregular party conventions were held. The leaders of the Democratic party, through various county and State conventions, nominated James S. Conway for Governor and Archibald Yell for Congress. The Whig leaders met at Little Rock, and nominated Absalom Fowler for Governor and William Cummins for Congress. Fowler was a native of Tennessee. After he came to Little Rock he became one of the best lawyers of his day. Cummins was a native of Kentucky and was a leading lawyer at Little Rock.

This was the first election in which the people had an opportunity to select their Governor or aid in the election of a President. It was the first time a candidate for the Governorship appeared before the people to explain his policies and plans. The large vote showed a general interest on the part of the people. The Democratic candidates easily won, Conway securing 5,338 to 3,222 for Fowler for Governor, while Yell received an even larger majority for Congress.

Governor-elect Conway was a native of Tennessee, and came to Arkansas in 1816. He was appointed surveyor-general in 1832. He became a large land owner, and at one time had over one hundred slaves. His mother was a Rector; and a Conway or a Rector was Governor of Arkansas from 1836 to 1840, and from 1852 to 1862. Archibald Yell was born in North Carolina in 1797, and came to Arkansas in 1831, after having been appointed receiver of the Federal land office at Little Rock. He became judge of the Superior Court in 1835. He was elected by the people to Congress in 1836, to the Governorship in 1840, and again to Congress in 1844. He resigned from Congress in 1846 to serve his country in the Mexican War, and lost his life at the battle of Buena Vista in 1847. He was a very popular leader and able politician.

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16. *Independent Balance,* (Batesville), April 11, 1856.
17. *Ibid.,* July 4, 1858.

CHAPTER XI.

THE ADMINISTRATIONS OF CONWAY, YELL, AND DREW,

1836-48.

The first Legislature of the State of Arkansas met on September 12, 1836, in the new unfinished State House. Governor Conway in his inaugural address recommended the appointment of a board of internal improvements, and also a commission to select the seventy-two sections of land granted the State to establish a university. He wanted the university established. He also emphasized the value of internal improvements and education. It was strongly recommended that the five per cent. of all public land sales within the State donated by the United States government be loaned by the treasurer to responsible parties until sufficient funds accumulated for carrying into effect the original purpose of the grant. This aid was definitely promised the State for the construction of roads and canals. However strongly recommended, no university was established and little was done for public schools.[1] In 1838 the Governor was authorized to sell the university lands; then they were sold cheap and partly on credit. This policy gained popular approval, but secured little revenue. The proceeds from the sales in 1846 were turned over to the counties to be used for common schools.

The Legislature of 1836 elected the first two United States Senators, Ambrose H. Sevier and William S. Fulton. Sevier was elected for the short term, which expired with the last session of the twenty-fourth Congress. He was elected for a six-year term in the special session of the Legislature in 1837. Robert A. Watkins was made Secretary of State; Elias N. Conway, auditor, and William E. Woodruff, treasurer.

The Constitution provided that the judicial power of the State should be vested in a Supreme Court and Circuit Courts. The justices of the Supreme Court and Circuit Court judges were to be chosen by both branches of the Legislature in joint session. Townshend Dickinson, Thomas J. Lacy, and Daniel Ringo were elected justices, and Ringo became the first chief justice. The Legislature petitioned Congress for changes in the preëmption regulations and for more protection along the State border because of the frequent robberies there by Indians and outlaws. Continued aid was asked for certain roads. The session was a very busy one, because the whole State government machinery had to be set up, such as the courts, militia, and a system of revenue.

The first State Legislature, with the approval of Governor Conway, but against the advice of Chester Ashley and Absalom Fowler, created

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1. See Vol. II, chs. XI, XII.

the State Bank and the Real Estate Bank. Any new country needs capital. Private credit at this time was not strong enough to secure the amount of capital wanted. The accepted scheme was to lend the public credit to secure the funds for the creation of banks to fill the void left by the destruction of the Second National Bank and lend money on easier terms than that institution ever would. Other states and the Territory of Florida were doing the same thing. The stupidity of the scheme may be overlooked, but the rascality of the managers cannot. Twenty years later the messages of Governor Elias N. Conway, brother of the man who signed the bills creating the banks, was not altogether complimentary to the promoters.[2]

Governor Conway called an extra session of the Legislature to meet in November, 1837. The Constitution had forbidden the levying of more tax than was necessary to run the State government, except by a two-thirds majority of both Houses. Conway stated that the treasury of the State would soon have a surplus of about $50,000. This surplus was very gratifying, he thought, because it indicated a prosperous people and an economical administration of public funds. He thought the taxes should be lowered.

The Legislature remained in session four months, and with its allowance and by other means, considerably lowered the surplus. Over two hundred acts of various kinds were passed. The tax rate was lowered on all taxable property. Bounties were offered for wolf scalps. Regulations were made for the Supreme Court and Circuit Courts. Fees for various offices were regulated. The manner of laying off highways was prescribed. Turnpikes, ferries, and coal mining companies were chartered. During this Legislature, John Wilson, the Speaker of the House, in a fit of anger, because of certain allusions to his bank activities, stabbed to death a fellow-member, Joseph J. Anthony. The jury later found Wilson guilty of "excusable" homicide![3]

All through territorial days the only support given the construction or maintenance of roads had been the very ineffective system of free labor. No taxes were levied for the purpose. Later the State granted to individuals the right to build roads and bridges and collect tolls for their use. Overseers could be prosecuted in the courts for a failure to summon hands to keep certain public roads open. Agitation for roads to be put in condition for the passage of the mail hacks helped to stir up negligent overseers.[4]

Immigrants were coming into the State in large numbers. From 1830 to 1840 the population grew from 30,388 to 97,574. This rapid coming of settlers emphasized somewhat the unsatisfactory land policy.

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2. *Independent Balance* (Batesville), July 25, 1856. See Vol. II, chs. VII and VIII for a full account of the banks and of their effect on the State's finances.
3. Pope: *Early Days in Arkansas*, 104.
4. *Independent Balance* (Batesville), September 23, 1858; February 18, 1859.

Squatters or preëmptioners took possession of lands granted the State and unsurveyed government lands, made clearings and erected buildings. When these people were driven off the government or State property they generally soon returned. Here they were not molested by State tax gatherers. If the squatter had a good location, and wanted to move, he could sell his claim. If he did not want to move, he could buy 160 acres or less at the minimum price of $1.25 per acre when the government surveyed the Territory and offered the land for sale. His having occupied the land illegally did not deprive him of this privilege. The government of the United States recognized this principle in a law passed in 1824.[4]

When speculators learned that the government would soon survey and offer for sale certain regions, they combed the woods to purchase old preëmption claims. Men often perjured themselves and sold bogus claims. These claims often overlapped. Governor Pope, in 1833, said that much of the best unsold land near Little Rock was plastered over with claims. Local courts and commissioners of local men were inclined to grant favors to the squatters. After 1824 the United States Attorney at Little Rock was authorized to take appeals, in such cases, to the United States Supreme Court. This had compelled the local boards and courts to be more careful.[5]

Arkansas was not properly supplied with government surveyors and land office officials until the early days of its statehood. For a long time the nearest surveyor-general lived at St. Louis. This official made contracts with deputy surveyors for the surveying of all government land put on the market. After constant petitioning on the part of the Legislature, a surveyor-general was appointed for Arkansas in 1832. By about this time there were several land offices established, each having a receiver and register. The register accepted applications for land and registered them. The receiver accepted the payments and forwarded the money to the Treasury Department at Washington. The ones selected for these positions were generally ambitious, educated young men from the eastern states.

Government land sold for a minimum of $1.25 per acre, but other good land privately owned often sold for much less. This was because of the large amount granted by the government to old soldiers of the War of 1812 and the Mexican War, and to the State. A great deal of this land was offered for sale. In 1849 a soldier of the Mexican War sold his grant of 160 acres for $125. In 1856 a tract of 320 acres sold for twelve and one-half cents per acre. Under such circumstances it could hardly be expected that the sale of government land in Arkansas would be highly remunerative. Only the very best land could be sold following a government survey, and influential men and speculators generally secured it,

4. *Statutes at Large,* VI. 39.
5. *Ibid.,* VI, 41; VIII, 979-81.

because they knew the location of the most valuable tracts, or gained the information from surveyors. Sometimes the surveyors were followed by a number of these interested men.

The Little Rock office in 1824-25 received for land sold $3,324; but its expenses were $4,004. In 1821 only 560 acres were sold at Little Rock; in 1830, 1,862 acres; in 1832, 4,450 acres. At Batesville, in 1822, 22,593 acres were sold; in 1826, 5,885 acres; in 1830, 786 acres, and in 1832, 3,048 acres. In 1829 the offices at Batesville and Little Rock sold 2,681 acres at $1.25 per acre, receiving $3,351. The expenses were $2,220. So these offices were at the time paying more than their running expenses. By 1833, 105,009 acres were sold by the government in Arkansas, and after deducting all expenses, the government received $100,342.

But this amount of land granted to individuals was not all the government disposed of by any means, for by 1828, it had disposed of lands in Arkansas as follows: For claims under Spanish and French grants, 59,682 acres; for military land warrants (1812), 1,162,880 acres; for seminaries of learning, 46,080; common schools (one thirty-sixth part of the whole), 802,867; sales of land to individuals, 57,170 acres; a total of 2,128,679. Just prior to the Civil War the lands given to the State had been as follows: Seminaries and schools, 932,540 acres; for internal improvements, 500,000; public buildings, 10,600; salines (salt springs and surroundings), 46,680; the swamp lands, 8,900,000; individuals and companies, 139,366; for military service, 1,627,433 (included grants of service in the War of 1812 and in the Mexican War); railroads, 2,098,-200; confirmed private claims, 118,451. The amount sold was 4,534,232 acres, making a total of about 19,000,000 acres.

In the General Assembly of 1838, there were four Whigs and thirteen Democrats in the Senate; and seventeen Whigs, thirty-two Democrats, and five Independents in the House. The Whigs were mostly from the north and northwest, and their political strength was about two-thirds that of the Democrats. Possibly the method of districting the State did not give the Whigs representation according to their numbers. In the election for Congress in 1838 the Democratic party candidate, Edward Cross, easily defeated the Whig candidate, William Cummins.

The Governor reported in his message that the squatters were taking the lands granted the State by the Federal government, and making improvements on them. He asked the Legislature to advise whether new lands should be selected by the State in order to permit the squatters to hold their selections for purchase under preëmption rights when the government put the land on the market. He also said that it might be best to seek some kind of agreement with the squatters. He again strongly recommended aid to schools and internal improvements.

The Legislature elected a few State officials, chartered two academies, and erected two new counties. A State penitentiary was provided for,



A PANORAMA OF FERTILITY



THE MAMMOTH CAVE SPRING



WHERE A SMALL STREAM JOINS LAKE TANEYCOMO

and completed in 1840. It was located on the site of the new State Capitol, and was used until 1910. The place was then in woods and the land was bought for about $20 per acre. The Legislature of 1838 appropriated only $20,000, and with this amount the building committee got only the foundation laid. Forty thousand five hundred dollars more was appropriated in 1840. In a desperate effort to break jail, in 1846, the prisoners damaged the building to a considerable extent by fire. The repairs cost $10,000 more.[6]

A law was passed providing for the care of orphans and indenturing the children of indigent parents. This matter was put under the jurisdiction of the Probate Courts in the various counties.[7] There were many minor acts passed concerning the courts, justices of the peace, lands, and revenue.

The election of 1840 in Arkansas, as elsewhere in the United States, was an exciting and interesting one. The Democrats nominated Archibald Yell for Governor and Edward Cross for Congress. The Whigs nominated Absalom Fowler for Congress, but made no nominations for Governor. The Whig presidential electors ran the Democratic electors the closest race that party had before the Civil War. The numerous floats, banners, parades, and popular songs concerning Van Buren and Harrison enlivened the campaign. An immense Whig gathering took place at Little Rock July 13 and 14. The numerous Whigs around Batesville made a large canoe and hauled it in sections on wagons all the way from that town to Little Rock. It was accompanied on horseback by one hundred and fifty of the most beautiful young ladies (among the Whigs) and one hundred and fifty men, all Whigs. After reaching Little Rock the canoe was put together and mounted on wheels. A small log cabin was built on the front of it, and a large live 'coon was tied on the top of the cabin. Around the sides of the canoe sat twenty-six beautiful young ladies (representing the twenty-six states), singing songs and waving banners.

About 11,000 voted in the State election in 1838, but in 1840, 13,000 voted for State officers and 12,000 for the presidential electors. In 1838 the Democrats had 2,500 majority, but in 1840 they had only about 1,500 majority.

In 1840 Governor Conway was much pleased with the growing population, wealth, and prosperity of his people. The United States government, too, was spending money in the State, building a fine arsenal and a new fort at Fort Smith. Many people were very enthusiastic over the beginning, though indeed small, of coal mining. The total wealth of the State was around $20,000,000, about equal to the property of a person we now call a wealthy man. At this time the State, princi-

6. Hempstead: *Historical Review of Arkansas,* I, 153-54.
7. Gould: *Digest,* 150.

pally through bank legislation that U. M. Rose said a high school boy ought to have known better than to enact, had a debt of about $3,000,000. So over one-seventh the taxable wealth of the State had been handed over to certain politicians, speculators and adventurers. And by 1840 the surplus in the treasury had disappeared, and there was a deficit of over $65,000. The amount of State taxes raised per year was about $30,000. The Federal government no longer paid the salaries of the Governor and other officials, traveling expenses of the Legislature and incidentals, making a total of over $18,000 per year, which it had paid under the territorial government in 1829. At that time members of the Legislature received three dollars per day and a mileage of three dollars for every twenty-five miles traveled in attending the sessions.[8] Under the State government this was changed to as much as four dollars per day and a mileage of three dollars for every twenty miles traveled.

Governor Yell in his address to the Legislature, November 4, 1840, said the State should have a system of schools in which should be taught, not only the rudiments of learning, but literature, science, and practical farming. He, too, stated the urgent need of internal improvements. The leaders of the State could educate their children in private schools and academies. And many of them, after cotton was picked, corn gathered, and hogs slaughtered, could easily load these products on boats for New Orleans, their best market. They did not feel so much the need of public schools, railroads and turnpikes.

The Legislature made its usual round of electing officers, incorporating academies, creating counties, and making minor changes in salaries and revenue laws. It fixed the pay of grand jurors at one dollar per day and five cents per mile for mileage. It authorized the Governor to sell the seminary lands.[9] The laws against gambling were revised, but it seemed to be difficult to agree upon a definite policy on faro banks, one Legislature providing one thing and the next changing it.[10] A constructive bit of legislation was that of providing for levee work along the Mississippi, in anticipation of Federal aid. In 1835 Congress had called for estimates of the cost of this needed work on the Mississippi, St. Francis, and Arkansas rivers. This information was gladly furnished. It was estimated that the levee construction would cost about four dollars per rod; and that the total cost of all needed improvements would total $803,000; but the completed work would redeem land to the value of over $8,400,000.

In 1841 Congress gave the State 500,000 acres of land to be used for internal improvements. The lands were to be located and sold, and the proceeds applied to the construction of roads, the improvement of navigable streams, and levee work. Levees were begun in Chicot County.[11]

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8. *Arkansas Gazette,* February 18, 1829.
9. Herndon, I, 248. Gould: *Digest,* 370.
10. Acts of 1840, 41. Acts of 1842, 104.
11. *American State Papers, Public Lands,* VIII, 245, 310, 329.

In gifts of public lands, Congress dealt generously with Arkansas. The Legislature provided that the land be selected and sold at a minimum price of two dollars per acre. This was very good, but it made a mistake in placing the management of the lands in the hands of an agent elected every two years. Scheming politicians and speculators would try to secure a man suitable to them. There was not a great deal of land sold at two dollars per acre.

The Legislature of 1842 had the usual safe Democratic majority in the House, and a still larger one in the Senate. The assemblies now for many years spent much time discussing the defunct banks, and making gestures towards a settlement of the matter. What was done did not amount to much more than closing the door after the thief was gone, and leaving it so that he could safely return for anything he might have left. For instance, the assets of the Real Estate Bank were put under the control of a board of trustees, but no responsible State officials were members of the board, and the State knew nothing about what was done until 1853.[12] The Legislature of 1842 believed that because of the growing population and increase of business that the fees of certain county officials could be reduced. A law was passed with the intention of preventing the cutting of timber and pasturing cattle on the school lands. The law was never well enforced. As usual, new counties were created and academies chartered, although the latter institution might consist of a log house and one teacher who pretended to know a little Latin and algebra. But they might be much more. For example, Batesville, in 1858, had an academy of such grade that one building alone cost $20,000. This school had an academic and a collegiate department with a special department of instrumental and vocal music. The principal had several assistants. But such schools were rare indeed.[13] In addition to the usual legislative activities concerning counties, office-holders, academies, and taxes, the Legislature began regularly to incorporate towns. This Legislature of 1842 incorporated Van Buren and Fort Smith.

The election of 1844 was, also, a lively one. There was much controversy carried on over the settlement of the bank affair and criticisms made of the Democratic party-family machine. This organization had failed to keep Woodruff as State Treasurer; he had become financially embarrassed, and sold the "Gazette" to the Whigs. The Democrats, through a State convention of a few delegates from sixteen counties out of forty-six, met quite early in December, 1843, and nominated Elias N. Conway for Governor, Daniel J. Chapman for Congress, and Abner E. Thornton, William Sutton, and Elias Rector for presidential electors. This action caused an uproar in some quarters, and another convention was agreed upon. The whole slate of candidates was now changed.

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12. Elias Conway: *Message to the People, Independent Balance* (Batesville), July 25, 1853. See Vol. II, ch. VIII, for a full account.
13. *Independent Balance* (Batesville), April 22, 1858.

Chapman was nominated for Governor and Archibald Yell for Congress. The nominees for the presidential electors were William S. Oldham, Mark W. Izard, and Chester Ashley.

The Whigs nominated Lorenzo Gibson, of Hot Spring, for Governor, and Judge David Walker, of Washington County, for Congress. The joint campaign between Walker and Yell was the most interesting. Both were honest, able men. But Yell was by nature the best qualified campaigner for those days. He could be "all things to all men," and do it at the right time and in the most spectacular manner; whether it was in a camp meeting, a shooting match, or a treat at the bar.

The candidate for the Governorship, Chapman, withdrew from the race, and the Democratic party leaders placed in nomination Thomas S. Drew, a rich planter of Lawrence County. R. C. Byrd was also run as an independent Democrat in order to secure votes that otherwise would have gone to Gibson, the Whig candidate. In the election Yell won by a handsome majority, but Drew was elected by a plurality vote only.

Thomas S. Drew, it is believed, was a native of Tennessee. After he came to Arkansas he traveled over the country as a peddler, taught school, and finally made his fortune by marrying a rich widow. He then became a successful planter in Lawrence County. He held various county and State offices. He was Governor one full term of four years, and was elected for a second term, but soon resigned. He later moved to Texas, died there, and was soon forgotten.

Governor Drew was ushered into office with the usual inaugural ceremony. A procession generally formed about noon on the appointed day, marched to the Governor-elect's home or hotel, escorted him to the Capitol, where the oath of office was administered, and then accompanied him back home. The procession was often led by a company of militia, followed by a band of musicians, the Federal, State, and local officials. Then came in order the members of various lodges and societies; such as the Masons, literary societies; and last and least, on such occasions, the private citizens and strangers. The oath of office was administered by the Chief Justice of the Supreme Court on the steps of the Capitol in sight of the people. A salute of twenty-six guns was fired. The inaugural address was delivered to a joint session of both Houses of the Legislature.

One of the first acts of the Legislature in 1844 was to elect Chester Ashley to the United States Senate to fill the unexpired term of William S. Fulton, who had just died. Before this time Ashley had not played a very active part in politics, and won his election without political wire-pulling. He had been very successful in his legal practice and business ventures. He served in the Senate with distinction and ability until his death in 1848.[14]

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14. *Sketch of Ashley,* by U. M. Rose, *Publications of Arkansas Historical Association,* III, 47-60.

Drew reported to the Legislature that only 136,000 acres of the 500,000 granted by the government for internal improvements had been sold at $2 per acre. He recommended a minimum price of $1.25 per acre. He also suggested that a board of internal improvements be created for the purpose of selling the lands and expending the money on the improvement of the navigable streams and the construction of roads and levees. But a board of politicians was no better than an agent elected by politicians. The practice of reducing the price of lands only whetted the appetite of the speculators and buyers for still more reductions. Another unwise thing to do was to sell the lands on long term payments, because by the time payments were all due, enough people were interested or indebted to the State to influence the Legislature to give more time to the debtors, or prevent its making regulations to compel payment or a surrendering of the land. It seems that, if the Legislature had properly managed the lands donated by the government, it would have secured funds out of which, with an additional small property tax, it could have provided some good roads and public schools. But it neither levied the tax nor wisely managed the funds given it.[15]

The Legislature spent much time discussing school lands and banks. It petitioned Congress for levee work on the Arkansas and Mississippi rivers. Congress was asked to complete the "military" road from Memphis to Fort Smith; especially the part from Little Rock to Fort Smith. Archibald Yell, in the early part of 1846, resigned his seat in Congress to enter the Mexican War as a colonel. A special election was held in December, 1846, to fill the vacancy. In this election the Whigs secured the only Congressman they ever sent from Arkansas, Thomas W. Newton, of Pulaski County. The reason for his election was due to the fact that Yell's term was practically over, and the regular Democratic party machine had already nominated and elected one of its own members, Robert W. Johnson, to succeed him at the expiration of his regular term. Another reason was that two of the Democratic candidates divided the small party vote cast in the election. The short term was not of special interest to the Democratic household.

Arkansas sent a regiment and several companies to the Mexican War. Because of its being a Southern State and also because of its nearness to Texas, the people of Arkansas were greatly interested in the outcome of the War. Yell's regiment did valiant service at Buena Vista. Here Colonel Yell lost his life at the beginning of the battle. A. H. Sevier resigned his seat in the Senate to help persuade the Mexicans to ratify the treaty already negotiated with Nicholas P. Trist. In this treaty the United States agreed to pay for the territory ceded $15,000,000 and assume the claims of her own citizens against Mexico.

The Legislature of 1846 reëlected Chester Ashley to the Senate. Fol-

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15. Weeks: *History of Public Education in Arkansas,* 46.

lowing an established custom it did not fail to create counties and academies. A wise thing was done in changing the old viva-voce method of voting to that of the ballot. The ballot box, with lock and key, now took place of the old public poll book. In this book the clerk of the election had kept a record of how and for whom the people voted, or wished to vote, and the votes were counted from this record. In the new law no printed ballots were provided. The ballots from the boxes were counted in the presence of everybody. The Legislature also provided that each justice of the peace in the State must hold a monthly court in the township for which he was elected.[16] With slight modification (1848, 1856) this continued to be the law until the Civil War.

The first State Legislature in 1836 provided for a tax levy of one-fourth of one per cent. upon the sworn assessment of taxable property, but this was soon reduced to one-eighth of one per cent. The Legislature in 1846 found itself facing an empty treasury. To meet the deficit it again levied the one-fourth of one per cent. rate. The Constitution required the property taxed to be specified, and that all property be taxed at the same rate. Slavery could not be taxed out of existence, if that was an object in this provision. The law of 1846 contained this interesting phrase, "all land shall be valued at the true value thereof . . . . but no lands shall be valued at a less price per acre than three dollars."[17]

This provision had a tendency to put all land on or near the three dollar valuation. It was unfair to the owners of poor farms in the hills and uplands. The owners of rich cotton producing bottom lands would not bear a just share of the taxation. The minimum of a three dollar valuation often became the rule. This was certainly true in Poinsett County in 1857. So the poor man with land not worth fifty cents an acre, would be required, by this arrangement, to pay the same rate of tax per acre as did the rich influential owner of bottom lands worth one hundred dollars per acre.[18]

In 1850 an unsuccessful effort was made to have the tax rate on land increased. In 1857 the tax rate was lowered to one-sixth of one per cent. From the beginning of State government, land, slaves (between certain ages), merchandise, mills, horses, distilleries, and cattle were taxed at various rates. From time to time, other property, such as money loaned, steamboats, factories, mills, toll bridges, and jewelry were added to the taxable list. Peddlers were taxed by the State. Fees were charged by various officials, which materially increased their salaries.[19]

The sheriffs were generally assessors and some times the collectors. Sheriffs and deputies were usually paid six per cent. for collection, and it cost from three to four per cent. to secure the listing of property. The

16. Acts of 1846, 12-15. Gould's *Digest,* 465-80.
17. Acts of 1846, 50.
18. *Independent Balance,* May 2, 1856; February 3, 1857.
19. D. Y. Thomas: *History of Taxation in Arkansas, Publications of Arkansas Historical Association,* II, 45-47, 52, 68.

usual penalty provided for a failure to list property was to double the tax. Low assessments, frauds practiced in assessments, and bribing the officials, caused a great loss in revenue, and permitted many to escape a just burden of taxation. Possibly one-third to one-fourth of all taxable property escaped taxation, principally through frauds in assessments. During the late 'fifties a joint committee of the Legislature reported that 5,000,000 acres of land owned by individuals and companies escaped all taxation. About this time only about 8,000,000 acres was on the tax list.[20]

In 1836 Arkansas had received quite a bit of unexpected revenue. The United States government had found itself in possession of a surplus of over $37,000,000. Congress decided to distribute this money to the states in proportion to their population, to be used for any purpose or purposes the states saw fit. Arkansas received something like $375,000. Some states used all the funds received for public schools; others, like North Carolina, expended them for education and internal improvements. Arkansas used from $40,000 to $60,000 of this money per year for ordinary government expenses. The remainder was invested in the State Bank as part of its capital, and this amount was lost in the failure of that institution.

The total revenue received by the State government was, in 1835-36, $10,546; in 1838, $21,859; 1845, $30,154; 1850, $93,540; 1860, $170,078. The assessed value of the property taxed was, in 1838, $15,564,284; 1845, $20,769,514; 1850, $34,935,885; 1855, $65,479,734; 1860, $122,455,400.[21] These figures show a rapid increase in property values during the late 'forties and 'fifties, especially the latter, because during these years the amount of valuation almost doubled. In 1850 over three times as much tax was collected as in 1845. Then after that the increase in the collection of taxes never kept up with the growth of wealth.

The counties also collected taxes. This ranged from a rate equal to about half to an amount equal to that of the State. Just before the Civil War Independence County collected about $7,000 in taxes.[22]

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20. *Ibid.*, 75, 86.
21. *Ibid.*, 89.
22. *Independent Balance* (Batesville), April 18, 1858; June 17, 1858.

CHAPTER XII.

THE ADMINISTRATIONS OF ROANE AND ELIAS N. CONWAY, 1848-60.

The regular Democratic organization in 1848 nominated Thomas S. Drew to succeed himself as Governor, and Robert W. Johnson for Congress. The Whigs made no nomination for Governor, but ran Thomas W. Newton for Congress. The people voted for over twenty-five different men for Governor. Several hundred people, mostly Whigs, scattered their votes for such men as Albert Pike, Lorenzo Gibson, Thomas Newton, and "Fent" Noland. The actual voting population was now about 25,000, but only about 17,000 voted in the gubernatorial contest. In the Congressional race, Johnson received about three-fifths of the number of votes cast. The race between the presidential electors, was as usual, of less interest to the people, than the one among the State candidates. The Democratic electors won easily, although the Whig candidate for President, General Zachary Taylor, had lived for some time at Fort Smith, and had many personal friends in the State who worked faithfully for him.

The slavery question played a prominent part in the campaign. The Democratic convention of Arkansas declared:

> That as to any territory acquired by us, it is the right of the people inhabiting such territory to decide at the proper time whether the institution of slavery shall exist there or not and that any attempt on the part of Congress to control that matter would be a violation of the Compact of the Federal Constitution and an insult to the sovereignty of the States.

The sovereign states were declared to be the sole and proper judges of everything appertaining to their own affairs. The efforts of the abolitionists and others to induce Congress to interfere with questions of slavery were calculated to lead to dangerous consequences and to endanger the stability of the Union. The Mexican War was declared to have been a just and necessary one.[1]

Governor Drew reported to the Legislature which met November 4, 1848, that the new tax laws had greatly increased the revenue; the receipts were now sufficient to meet the ordinary expenses of the government and to cancel some outstanding warrants past due. In addition to the usual State officers, this Legislature had two United States Senators to elect, as Sevier had resigned to serve on the commission to negotiate peace with Mexico and Ashley had died in April. Sevier died December

1. Hempstead: *Historical Review of Arkansas,* I, 174-76, 256-57.

31 and thus Arkansas lost by death in one year two of her ablest men, Ashley and Sevier.

To succeed Sevier, the Legislature chose Major Solon Borland, of Little Rock, editor of the strong Democratic paper, "The Banner." He was a native of Virginia and came to Arkansas in 1843. He strongly supported the policies of Southern Democrats towards Mexico and the Central American Republics. He served in the Mexican War. In 1853 he resigned from the United States Senate to become our minister to Nicaragua.[2] To fill Ashley's place, William K. Sebastian, of Helena, was selected. Sebastian, like many other Arkansas political leaders, was a native of Tennessee. He came to Arkansas about 1835 and married a rich planter's daughter. He held several State offices. Sebastian was a moderate unionist when the Civil War came on, and like Andrew Johnson, of Tennessee, never resigned his seat in the United States Senate when his State seceded from the Union, though he never attended after secession. He was, however, suspected of disloyal designs, and expelled from the Senate in 1861. The expulsion was rescinded in 1877 and the salary for the rest of his term paid to his heirs.

The Legislature of 1848 provided that the sales of the 500,000 acres of land donated Arkansas by Congress should be divided equally among the counties of the State to be used for internal improvements. Each county was required to elect a commissioner to expend this money according to the purposes of the gift as he saw fit. Under specified conditions he could loan the money to individuals at ten per cent. He was paid a commission of one dollar per day while on duty and two per cent. of all the money he handled. These county commissioners could form their counties into internal improvement districts and unite their funds. They could use the funds to aid any duly organized railroad company.[3] The Legislature, as usual, made changes in various laws concerning schools, the judiciary, and banks; created a county, and chartered academies.

Governor Drew had expected the Legislature to increase his salary, but it came to the last days of its session without having done so. So he declared that he could not live at the Capitol on the salary provided, and resigned. Then R. C. Byrd, of Jefferson County, President of the Senate, became Acting Governor.[4]

In a special election for Governor, held April 10, 1849, John Selden Roane, nominated by the Democratic party-family machine, won over the Whig candidate, Cyrus W. Wilson, of Pulaski County. The total vote cast in the election was only 6,545, of which Roane received a majority of eighty-nine. Roane was born in Tennessee in 1817, and came to Pine Bluff, Arkansas, in 1837. He later moved to Van Buren and was

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2. *Dictionary of American Biography,* II, 464.
3. Gould: *Digest,* 708-12.
4. Hempstead: *Historical Review of Arkansas,* I, 177.

elected to the General Assembly. He was a brother of Judge Samuel C. Roane. He served in both the Mexican and Civil wars.[5]

Beginning with 1849, a large number of people left Arkansas and many more passed through it in the California gold rush. Hundreds of travelers, in covered wagons, on horseback, and on foot, crossed the Mississippi at Memphis, passed along the old military road through Little Rock to Fort Smith, and on southwest across the plains to Sante Fé, or on west through Utah. As many as 315 covered wagons crossed the Arkansas River at the lower ferry near Little Rock during two weeks in November, 1849. Sometimes as many as fifty wagons left Fort Smith at one time. During the last four months in 1850, 1,540 vehicles passed along the road between Memphis and Little Rock. Some of these people stopped in western Arkansas and Texas. The tide slowed down during 1851. Many people in Arkansas thought that the settlement of California would make necessary the building of a railroad along this route. The editor of the "Arkansas Democrat," now W. E. Woodruff, said: "The iron horse would soon be rearing over the hills and plunging through the valleys on this great highway to the Pacific," a very pardonable expectation, considering the changes that had taken place since he blistered his hands in coming to Arkansas in a "dugout," then only thirty years back.

Many people left Arkansas itself. In 1849 a band was organized on strictly military principles under the command of a trained miner. The wagon beds were made watertight in order to float in crossing streams. Cattle were driven along for food. A consumptive in the crowd walked almost the whole distance and regained his health. They reached California in safety and part of the band later returned to Arkansas. In 1851 an old woman in a party walked nearly the whole distance. The first letters from California to Arkansas came by way of Cape Horn and New York. The postage was forty cents.[6] Some people in Arkansas, like Senator Borland, were much worried over the exodus of men and money from the State. Some of the newspapers began to publish articles describing the opportunities for the industrious in Arkansas.

The census of 1850 gave the population as 209,897, an increase of over one hundred per cent. in ten years. The slave population was now 47,708, and growing fast. At an average price of $500, the total value of slaves was then over $23,000,000, more than the total amount of other listed taxable property at the time! Slaves between the ages of eight and sixty were taxed, but in 1855, when the slave population was over 75,000, taxes were paid on only 25,611. Surplus capital in Arkansas was now kept tied up in slaves and land. The planters had a great deal of political power and influence.[7]

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5. Hempstead, I, 177-78.
6. Pope: *Early Days*, 290-92. Herndon: *Centennial History of Arkansas*, I, 259-60.
7. Thomas: *Taxation in Arkansas, Publications of Arkansas Historical Association*, II, 86. *Arkansas in War and Reconstruction*, 12.

Governor Roane in his message to the Legislature at its biennial meeting in November, 1850, urged reforms in the assessment, collection, and administering of the taxes. The legislature elected some officers, created its counties, chartered its towns and academies, and made minor changes in laws here and there. A law was passed to prevent speculation in "donated" lands. These lands were forfeited to the State because of unpaid taxes, and then quit-claimed to individuals on the payment of certain fees. Few of the old soldiers granted government lands ever lived on them. They generally sold their holdings or patents. Many of the buyers and soldier owners neglected or refused to pay the State taxes. When the land was forfeited to the State it was sold cheap or donated to actual settlers.

This session of the Legislature witnessed some heated discussions over the slavery question, and the relation of the states to the Federal Union. California had been admitted to the Union, breaking in favor of the North the old balance between free states and slave states. Roane in his message to the Legislature had declared that the states must be sovereign or suffer the fate of autocratic Russia. He said that the only advantage the South received in the compromise of 1850 was the fugitive slave law, and now it was being repudiated by northern states. If this act was repealed through the influence of the North, then secession was the only remedy for the evil. The Legislature agreed with the Governor, and stated that a repeal of the fugtive slave law or a prevention of its execution in any form should be a notice to the South that the North had decided upon the dissolution of the Union. Arkansas had already sent delegates to the Nashville Convention, which was originated by Calhoun for the avowed purpose of saving the Union by taking steps preparatory to its dissolution![8]

The Democratic party in 1850 easily reëlected Robert W. Johnson to Congress. The Democratic party machine was referred to during the 1850's as the "Johnson dynasty," or the "Johnson family machine," which, of course, included the Conways. During most of the time the administration and machine paper was called "The True Democrat," published at Little Rock by Richard H. Johnson. This paper received the State printing. Part of the time, at least, no one seemed to know just how much compensation it received for the work. In 1859 the paper stated at one time that it received $5,000 per year and at another time said the amount was $7,000. Just before the Civil War an insurgent faction of the party called the Hindman-Rector combination grew very strong.[9]

In the election of 1852 the Democratic State Convention nominated Elias N. Conway for Governor. The Whigs endorsed the independent Democratic candidate, Bryan H. Smithson. Conway was called the "dirt

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8. Hempstead, I, 181-88.
9. Shinn: *Early Arkansas Newspapers, Publications of Arkansas Historical Association,* I, 396. *Independent Balance,* February 25, 1859.

roads candidate" by his opponents because he said that dirt roads or macadam roads would be more beneficial and less expensive to the people than railroads. The people in the West wanted railroads built and wished to use the funds from the sale of all government donated lands for this purpose, and many of them wanted the law repealed that provided for the distribution among counties of proceeds derived from the sale of the internal improvement lands. Conway won with a safe majority, but it was not as large as usual. The Democratic party electors for Franklin Pierce secured a larger majority over those of Scott, the Whig candidate.

Elias N. Conway was born in Tennessee, and moved to Arkansas in 1833. He was the youngest and seventh son of Thomas Conway and Anne Rector Conway. The most prominent of this noted family were: Henry W. Conway, killed in the Crittenden-Conway duel; James S. Conway, the first Governor of Arkansas; William Conway, a Justice of the State Supreme Court; and Elias N. Conway, who was Governor from 1852 to 1860. He was auditor of the State from 1835 to 1849. He never married, and for many years before his death, in 1892, lived the life of a recluse, very seldom appearing in public. Like many other public men of his day, he did not belong to any church, but he did not, like a great number, drink and gamble. He made a stronger, better Governor than his elder brother did. The elder brother did not hold in check the bank party intent on robbing the State. Elias Conway thought less of his own fortune and considered more the welfare of the people of the State. He was one of the best Governors Arkansas had before the Civil War.[10]

Conway began his term of office with definite directions to the Legislature concerning the bank muddle, public lands, and internal improvements. Under his administration the bank matter was taken in hand by the State authorities, and settled as far as it could be. The census of 1850 showed that Arkansas was entitled to two members of the Lower House of Congress. The Legislature divided the State into two Congressional districts; the second one included all the counties south of the Arkansas River, and all the territory between the Arkansas and White rivers south of and including Pulaski and Prairie counties. It was neither a north and south division, or an east and west division, but it gave the Democrats all the members of Congress up to the Civil War. Sebastian was reëlected to the United States Senate. Five railroad companies were chartered.

The United States government in 1850 granted to Arkansas all the overflowed and swamp lands within her borders; approximately 7,763,000 acres. They were not worth very much at the time. This Legislature, January, 1853, put the lands under the control of an agent, with power to sell them under certain regulations. None of the land was to

10. Hallum, 50-58. *Dictionary of American Biography,* IV, 361.

be sold for less than fifty or seventy-five cents per acre. Preëmptions were allowed. It was provided that levee work could be paid for in State scrip. This scrip could then be exchanged for swamp lands not sold, improved and unimproved.[11] This work came more and more under the direction of Governor Conway, and quite a great deal was accomplished.[12] From 1852 to 1860 these scrips or certificates to the value of over $2,500,000 were issued, and over 10,000,000 cubic yards of levee work was completed on the Arkansas and Mississippi rivers.

In the first election of two members of Congress, held in the summer of 1853, the Democrats elected the jovial, good natured judge, Alfred B. Greenwood, of Benton County, to represent the first district, and Edward A. Warren, of Ouachita County, a newspaper man, for the second. The old Whig party was dead nationally, and was fast disappearing in Arkansas. Factionalism and insurgency in the Democratic party was growing.

Governor Conway's message to the Legislature of November, 1854, and January, 1855, was definite and constructive. He discussed principally education, internal improvements, and financial matters. He was more and more making his influence felt for honest, efficient government service, and was securing some worthwhile activities on the part of the Legislature. He demanded honest and economical expenditure of the public funds. Under his direction Arkansas made more progress before the Civil War towards establishing a public school system and reducing illiteracy than any other Southern State with the exception of North Carolina under the leadership of Calvin H. Wiley.[13]

Senator Borland had resigned his place in the Senate, and the Legislature elected Robert W. Johnson to succeed him. He was the son of Judge Benjamin Johnson, and brother-in-law of the late Senator A. H. Sevier. He was a native of Kentucky, and came with his father to Arkansas in 1820. Robert W. Johnson held various State offices; was a member of the United States House of Representatives from 1846 to 1850; and of the Senate from 1853 to 1861. He served in the Confederate Congress during the Civil War and died in 1874.[14]

The Legislature made various changes in the school laws, taxation, and public lands. It passed a law regulating for the first time, the manufacturing, sale and drinking of intoxicating liquors. Drinking seems to have been much more common then than it is today. It was indulged in at barbecues, elections, dances, and public gatherings. Lawyers carried liquor with them on the court circuits; it was sold in the courtyards while the courts were in session. In 1820 a tax not to exceed one dollar on every $100 valuation of distilleries was passed, and a license of not less than ten dollars or more than fifty dollars was required for all saloons or

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11. Gould: *Digest*, 717-24.
12. *Publications of Arkansas Historical Association*, I, 198-99, 220.
13. See vol. II, ch. X.
14. *Dictionary of American Biography*.

tavern keepers where liquor was sold. No changes were made in the law until 1838, when it was provided that the amount of the licenses between the old specified amounts would be fixed by the county courts. The purpose of the law was for revenue, and not to control the liquor business. A law was passed in 1855 which stated that the county courts should not give a tavern or saloon license for the sale of liquor unless a petition to do so was signed by a majority of the voters in the township where the business was located. The range of the license was made from ten dollars to one hundred dollars. The retailing of liquor was forbidden within three miles of certain academies. These laws are the only ones passed on the matter before the Civil War.[15] A reapportionment of the State Representatives and Senatorial districts was made. Each county had from one to three representatives, and each of the twenty-five Senatorial districts contained from one to three counties.

The election of 1856 brought the American or Know Nothing party prominently into Arkansas politics. The Free Soil party never gained a foothold. The Democrats severely ridiculed the members of the Know Nothing party because of their secret meetings, oaths, ceremonials, and passwords. This party advocated the election of only native Americans and Protestants to office, so the Democrats declared they stood for racial and religious bigotry and intolerance, and violated the spirit of American ideals and institutions.

The leaders of the American or Know Nothing party (old Whigs), declared that the Democratic party, the "Conways, Johnsons, and their kith and kin," had eaten up the substance of the State like canker-worms. Their aim had been, it was said, to obtain the spoils of offices, and to rule or ruin. They had robbed the State by a banking system and had later protected the thieves. They had failed to establish a public school system, or to build roads. The public lands of the State had been wasted. The Democrats in turn declared they had begun a system of internal improvements and public schools, and were managing the affairs of the government economically and efficiently. They had, it was claimed, replaced the use of depreciated bank paper with gold and silver, and had in the treasury a surplus of $150,000. They pointed with pride to the new wall built around the State penitentiary, the new workshops established there, and the rapid reduction of the bank debts.[16]

The leaders of the American or Know Nothing party were: James Yell, of Jefferson County; Absalom Fowler, and Albert Pike. Yell was nominated for Governor in 1856, Hugh F. Thomasson for Congress in the First District and Absalom Fowler in the Second. But the Democrats reëlected Governor Conway by a two to one majority, as well as

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15. W. A. Falconer: *Our Liquor Licensing System, Publications of Arkansas Historical Association,* III, 325-26.
16. *Independent Balance,* May, 1856. Herndon, I, 270.

A. B. Greenwood and E. A. Warren to Congress from the First and Second District, respectively.

The Legislature of 1856 met as usual in the early part of November. It reduced somewhat the rate of taxation, and made, under the direction of the Governor, many minor changes and regulations concerning swamp lands, levee work, roads, and schools. It was now regularly chartering railroads along with academies, incorporating towns, creating counties, and electing officers. It provided for a much needed geological survey. Before this time the Legislature had made several gestures towards such a thing without securing anything worthwhile being done. The survey now provided for a thorough study of the soils, minerals, forests, animals, navigable streams, and the natural resources of the State in general. But best of all, it left the selection of the director of the work in the hands of Governor Conway. He secured the appointment of David Dale Owen, State Geologist of Kentucky. Owen accomplished a great deal before the Civil War, but his death put an end to his work.

The Legislature of 1856 was very much disturbed over the fact that many clergymen were taking part in politics. This was declared to exert an unwholesome influence, and to strike a blow at the liberty of conscience.[17] The Legislature evidently felt that conscience was a thing that should not be disturbed, especially in political matters.

As the western part of the State grew in population, its leaders demanded more and more a share in the political offices. In the Congressional districts, it proved especially difficult to give many of the leaders an opportunity to go to Congress. There were prolonged and bitter contests in some of the Democratic district conventions. As many as three hundred ballots were sometimes taken, and then ended only after the two leading contestants had agreed upon a plan of rotation. The rivalry between the Johnson Machine wing of the party and the independents aggravated the matter. The rapid growth of population in the west was sure eventually to break the old machine control of the party.

In the election of 1858 the Democrats in the First District chose Thomas C. Hindman, of Phillips County, to succeed Judge Greenwood, of Benton County. In the Second District, Albert Rust, of Union, succeeded E. A. Warren, of Ouachita. Hindman and Rust became two able oppoinents of the "Johnson Machine" wing of the party.

Governor Conway's message to the Legislature, which convened in November, 1858, related principally to the finances of the State. He proudly told of what had been accomplished in reducing the State debt. He stated that over $2,000,000 of the indebtedness incurred by the wild cat banking scheme of the first Legislature had been paid. He justly deserved to be proud of his financial achievements, for when the seces-

17. *Independent Balance,* November 20, 1856.

sion convention met there was a balance of $216,277.74 in specie in the treasury. This Legislature created the last county established before the Civil War, Craighead, making a total of fifty-one counties in all. It also passed an act which prohibited the emancipation of slaves and provided for the expulsion of free negroes from the State. This looked very much like the realization of the fears of J. Q. Adams and others who opposed admission to statehood with a Constitution which forbade emancipation by the Legislature without the consent of the owners.



STUTTGART, HEART OF THE RICE BELT

In this manner water for irrigation is supplied at the rate of 1000 to 1500 gallons per minute direct to rice fields

CHAPTER XIII.

ECONOMIC AND SOCIAL CONDITIONS IN THE STATE BEFORE THE CIVIL WAR.

The reason for the law forbidding masters to emancipate their slaves and requiring free negroes to leave the State, mentioned at the close of the preceding chapter, is easy to understand. It grew out of fear of discontent among the slaves and the fear of an uprising caused by the activity of the abolitionists and of free negroes. Many people in Arkansas were now, as in other parts of the South, firmly convinced that slavery was right and just. Some believed that national laws prohibiting the importation of negroes should be repealed. They called the law of 1808 unconstitutional and a disgrace. They believed that the negro had received during slavery many benefits, such as comfortable quarters, food, clothing, and above all civilization and Christianity. Many good Methodists favored a repeal of a clause in their church discipline which forbade traffic in slaves. The number of slaves being taken into the churches was relatively declining. It was rather difficult for some to square salvation, heaven and slavery, so some kept the slave out and remained in the church themselves, while others permitted the slave to join the church and remained out themselves.[1]

After the adoption of the Constitution various laws were passed concerning slavery. Free negroes could not own slaves. The slaves were not allowed to leave the plantations without the permission of their masters. They could not possess guns or weapons without licenses. Whites and free negroes were subject to corporal punishment for association with slaves without the permission of their owners. Field work on Sunday was allowed in cases of necessity. County courts were authorized to appoint patrols, and these patrols were authorized, on their own discretion, to give twenty lashes on slaves found strolling about without licenses. Negroes could not testify in court except where all the parties were negroes. Negroes could be whipped for all offenses except capital crimes. Free negroes had to give bond for good behavior; and if convicted in court for any crime, and could not pay the fines, they could be hired out until the fines were paid. Then they must leave the State.

After 1843 free negroes were not allowed to enter the State. Stringent laws were passed for the return of fugitive slaves. The sale or gift of liquor to them was strictly forbidden. In 1850 a law provided that any

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1. *Reports of Washita Methodist Conference, Publications Arkansas Historical Association,* I, 222-24, 233-34. *Independent Balance,* May 6, 1858; December 17,1858; January 14, 1859.

person who maintained by speaking or writing that an owner had no right to his slave property should be confined in the State Penitentiary. The burden of proof was placed on the free negro to show that he was free. A law of 1859 provided that no free negro could remain in the State after January 1, 1860. After that date they were to be sold into slavery. Free negroes could remain in the State by choosing a mistress or master; they then entered the same conditions as other slaves.[2] Nearly all the free negroes left the State. One in Independence County petitioned the Legislature to be allowed to remain.

Much has been said about the profitableness of slavery and the treatment of the slaves. The system was unprofitable for the State as a whole, but it was doubtless profitable for some of the individual owners and relieved them of all drudgery or manual labor. The slaves on the whole were no doubt well treated as far as providing for them certain rough comforts in food, shelter and clothing. Their hours of labor were perhaps no more than New England factory workers of the 'thirties and 'forties. Some were allowed to own chickens and do some small farming of their own. Families were not often divided in sales. Most of the masters were no doubt kind and considerate, especially on the smaller plantations. An intelligent traveler in Arkansas on Red River saw a white overseer going among the negroes with a large whip and with two pistols buckled in his belt. There were not many very large plantations.

But slavery made impossible a real democratic State or community as expressed in public schools, churches, and other general community activities. Diversified industry was impossible and so many things had to be purchased that profits secured from staple crops were largely consumed. Manufacturing and the development of natural resources seemed impossible; for one reason, at least, because all capital was tied up in land and slaves.

Just prior to the Civil War there was much interest among the people of Arkansas in the construction of railroads. This interest was especially strong among the people in the northwestern and western parts of the State, about Fort Smith, Batesville and Fayetteville. The big planters and others on the rivers in the tidewater region did not feel the need of roads and railroads quite so much. If organizing companies, securing charters, selling stock, surveying, boosting, and obtaining grants of land from the National and State governments, could have built railroads, the State would soon have been well supplied. But all these things never seemed to accomplish much. Governor Conway declared himself in favor of all internal improvements, but he did not favor bonding the State or levying a tax to raise money to aid any of the railroad companies.[3]

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2. Jacob Trieber: *Status of Negroes in Arkansas Before the Civil War, Publications Arkansas Historical Association,* III, 175-83.

3. Conway's Message to the People, *Independent Balance,* July 25, 1858.

Charters were granted companies formed to build roads from Memphis to Little Rock; across the State from the Missouri State line to Louisiana, and branches to Fort Smith, and the Mississippi River. The members of Congress from Arkansas were able to secure a government grant of 3,840 acres per mile to aid in the construction of the two roads most desired, the Memphis-Little Rock line and Cairo-Fulton road. The Cairo-Fulton road was to run across Arkansas from Missouri to Texas. The grant of land was conditioned on the completion of a certain part of the line by a specified time. The Little Rock-Memphis road, by 1862, was constructed from Hopefield, opposite Memphis, to Madison on the St. Francis, and from DeVall's Bluff on White River to Little Rock. The rails were light, and the engines used for fuel wood laid conveniently along the track. Passengers and baggage were taken on boats from DeVall's Bluff on White River to Clarendon and then by stage over to Madison on the St. Francis. A trip from Little Rock to Memphis required thirty-two hours and cost ten dollars.[4]

The twenty-four years from 1836 to 1860—not quite one-quarter of a century—witnessed wonderful growth in wealth and population in Arkansas. This development from 1850 to 1860 was still more wonderful. In 1835 the population was only about 51,000 and in 1860 it was over 435,000. It had more than doubled from 1850 to 1860. The growth of certain counties shows the rapid development in some sections. The population of Searcy County in 1850 was 1,979; in 1860 it was 5,271. Marion, just north of Searcy, during the same time, grew from 2,308 to 6,192. The deplorable effects of the Civil War on these two counties and section are shown by the fact that in 1870 they had almost two thousand less people than in 1860. Hempstead County had 7,672 in 1850; 13,989 in 1860; and 13,768 in 1870. The same thing is true of other counties.[5] Mississippi, Chicot, and others in another part of the State show about the same rapid growth from 1850 to 1860, and a small decline from 1860 to 1870. Phillips, Pulaski, and some others, grew in population during both decades.

The slave population in 1860 was 111,115, and had more than doubled. They were, of course, mostly in the tidewater, or on the bottom lands along the rivers, owned by wealthy planters. In six counties there were more slaves than whites; Chicot, for instance, had 7,512 negroes to 1,722 whites. Big slaves owners like some of the Seviers, Conways, and Rectors, had many slaves, a hundred or more, raised hundreds of bales of cotton, a great deal of corn, and hogs. They lived in opulence and ease. Four or five hundred planters who owned most of the slaves had practically run the political affairs of the State. There were few negroes in the hilly or mountainous counties of the north and west. Newton County

4. Hempstead, I, 193, 399. *Independent Balance,* November 19, 1858.
5. Goodspeed: *Northeast Arkansas,* 92.

had only twenty-four. If the average price of slaves in 1860 was $700, Arkansas had $77,780,500, a large part of her wealth, invested in this kind of property.[6]

The white population was almost entirely native American. The foreign-born population in the State amounted to only 3,741, and these were almost entirely of North European stock. Of these Ireland furnished 1,312, Germany 1,143. The population was principally rural. Only about one-fourth of the land was included in farms. The average size of these farms was 288 acres; but this average was larger, of course, in the cotton growing sections than in other parts of the State. Some sections were yet very thinly settled, where people lived many miles from store, mill, school, church, or post office. Little Rock had a population of 3,727; Camden, 2,219; Fort Smith, 1,530; and Fayetteville, 967.[7]

The industrial development of the State from 1850 to 1860 was most remarkable; more so even than that of the population. In 1850 there were 261 manufacturing establishments, with a capital of $305,000; employing 812 men and 30 women; paying wages of $140,876; producing manufactured products valued at $537,000. In 1860, the number of establishments was 518; capital invested, $1,316,610; employing 1,831 men and 46 women; paying wages of $554,240; and producing goods valued at $2,880,578. Of this manufacturing, milling (grinding of flour and meal) and lumbering accounted for about eighty per cent. of the total. Lumbering itself was about half of the manufacturing. A small amount of capital was invested in the making of boots and shoes, clothing, leather goods and firearms. Although yet in its infancy, manufacturing was growing; especially in the western and northwestern counties. Property values grew from $39,841,000 in 1850 to $219,256,000 in 1860; a marvelous growth of over 450 per cent.[8]

The increase in the number and value of slaves had much to do with this growth of property values, but not all by any means. Chicot County, with 7,512 slaves, and 1,722 whites, had property valued at $7,098,787; the property value of the slaves was over $5,000,000. Washington County, with 13,180 whites and 1,499 slaves, had property valued at $5,805,186. But in manufacturing, Chicot had practically nothing, while Washington, although much handicapped by lack of roads and capital, turned out annually manufactured products valued at about $400,000.

Agriculture, however, was the most important industry. Three hundred and sixty-seven thousand three hundred and ninety-three bales of cotton were marketed and brought something like $15,000,000 per year. There were 989,980 pounds of tobacco raised annually. Some cotton and tobacco were grown in practically all the counties in the State, but the

6. D. Y. Thomas: *Arkansas in War and Reconstruction*, 12-13.
7. Census of 1860, Population, pp. XXIX, 19.
8. Thomas, 25, 26.

northern counties grew only a small amount. But these counties produced most of the foodstuffs, such as corn and wheat.

The Civil War came at a time when the State was growing most rapidly in wealth and population. It had, to be sure, as yet, done little for schools, or roads, but progress had begun. Internal improvements were being made under an economical and efficient administration. The Civil War was a great tragedy for Arkansas. The non-slaveholding population was growing rapidly, much more so than the slave-holding population; free labor was increasing; capital was being invested in manufacturing. Political control and influence was shifting more to the West. Eventually slavery could have been abolished by Arkansas without a Civil War.

CHAPTER XIV.

GETTING OUT OF THE UNION.

By David Y. Thomas.

In 1854 the Republican party was born out of opposition to the further extension of slavery in particular and in general to the existing fugitive slave law. In 1856 the Democratic party championed popular sovereignty as put into operation by Douglas in the Kansas-Nebraska Act and Buchannan was elected President on this platform. The next year the Supreme Court declared, in the Dred Scott decision, that Congress had no right to prohibit slavery in the territories. It naturally followed from this that a Territorial Legislature, which derived its authority from Congress, could not prohibit. February 2, 1860, Jefferson Davis introduced in the Senate a set of resolution to the effect that Congress was under an obligation to protect slavery in the territories.

In Arkansas the voters had been divided between the Whig and Democratic parties. On the dissolution of the former following its defeat in 1852 some of the Whigs went into the Democratic party, some to the American or Know Nothings, while some styled themselves simply the "Opposition." In State politics the chief interest in 1860 centered around the building of railroads, the repudiation of the bonds issued for the State Bank and the Real Estate Bank, and the "Johnson Family," or "Johnson Dynasty," which had controlled the Democratic Machine since 1836. The "Opposition" went after the "Johnson Family" and whatever it championed.

The State convention met at Little Rock April 5, 1860. It was somewhat divided on State issues, but practically unanimous on national questions. It declared that neither Congress nor a Territorial Legislature could, directly or indirectly (the "Freeport Doctrine"), "amend or impair the right of any citizen to take his slave property into the common territory and there hold and enjoy them" *(sic)*. It elected delegates to the Charleston convention and instructed them to withdraw, if the convention did not recognize the rights of the states in the territories.[1] The procedure of the convention itself later became an issue. It adopted a resolution that a majority of the Democratic votes cast in 1856 should be necessary for a nomination. The vote was taken by the number of votes cast in each county, but eight counties were not represented and their vote was disregarded in computing the majority. Six counties were rep-

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1. Fort Smith *Times,* April 19, 1860. See *Old Line Democrat,* March 22, 1860, for some county resolutions along the same line.

resented by proxy and the "Johnson Family" controlled some of these. R. H. Johnson was nominated for Governor.

Ten prominent delegates signed a protest against the convention and a district convention which met at Dover to nominate a candidate for Congress repudiated it. Dissatisfaction became so outspoken that Henry M. Rector resigned from the Supreme Court, where he had been placed by the "Johnson Dynasty" to get him out of the way. He denounced the convention and championed repudiation of the bank bonds, which Johnson opposed, although as editor he had roundly denounced the banks, but the main issue was the "Johnson Family." There was no essential difference between the candidates on national issues. Although he was somewhat handicapped by the fact that the friends of Douglas supported him, Rector won in the August election by 31,948 to 28,847. T. C. Hindman and E. W. Gantt, who had supported him, were elected to Congress.

The National Democratic Convention met at Charleston and elected T. B. Flournoy, of Arkansas, temporary chairman. When the convention adopted the Douglas platform and refused to endorse the Davis resolutions, most of the Arkansas delegation followed the instructions of the Arkansas convention and the example of the Alabama delegation and withdrew, but Flournoy and Dr. John J. Stirman remained. They held that a united democracy was essential to the safety of the Nation and asked why the other members of the Arkansas delegation assumed the responsibility for disrupting the party.[2] After fifty-four fruitless ballots the remnant of the convention adjourned to Baltimore, where it nominated Douglas. The Seceders also met at Baltimore and nominated John C. Breckinridge and Joseph Lane on a platform based on the Davis resolutions. The conservative remnants of the Whigs and Know Nothings adopted the name Constitutional Union Party and nominated John Bell, of Tennessee, and Edward Everett, of Massachusetts. The Republicans met at Chicago and nominated Lincoln and Hamilton on a platform endorsing the Declaration of Independence about equality and liberty, abhorring "all schemes for disunion," denouncing the Dred Scott decision as revolutionary, and declaring that neither Congress nor a Territorial Legislature had any right to establish slavery in a Territory.

A heated campaign was waged in Arkansas by such prominent men as T. C. Hindman, Albert Rust, James B. Johnson, E. W. Gantt, T. B. Flournoy, E. C. Jordan and John R. Fellows. The last named, a native of New York, but now a resident at Camden, pleaded for the Union in a joint debate with E. C. Jordan, who stood for secession. The Republicans put out no ticket in Arkansas or the Lower South and Douglas had few supporters. The appeal of Bell was distinctly national and he had a large following in the South. Lincoln received a majority of 57 in the electoral college, but his popular vote fell 949,165 behind the combined

2. Fort Smith *Times*, May 31, 1860. Van Buren *Press*, August 10, 1860.

vote of the other three. In Arkansas Breckinridge received 28,732, Bell 20,094, and Douglas 5,272, giving the first a small majority.[3] One of the most interesting things about the election is that counties with a large number of slaves generally supported the conservative tickets. Three of the five counties where the slaves outnumbered the whites voted for Bell. The fewer the slaves the more likely the county was to vote for Breckinridge, who was known to stand for secession. This does not mean that the white counties were consciously voting to break up the Union, the black to maintain it. In the main they were following the old lines of division between Democrats and Whigs. When the war came many in the counties which had voted for Breckinridge remained loyal to the Union.

The Legislature met November 15 and listened to an inaugural address by Governor Rector, which was a call for secession, but was not greatly excited by it.[4] Outside agitation for secession was continued, Senator R. W. Johnson, T. C. Hindman and E. W. Gantt leading. Among the leading opponents were Senator W. K. Sebastian and W. M. Fishback, who was personally acquainted with Lincoln. Mass meetings were held about over the State and resolutions looking to secession were adopted. The Methodist Conference at Van Buren set aside a day for fasting and prayer "for the preservence of our political Union." The "Van Buren Press," one of the best papers in the State, and the "Arkansas State Gazette" both opposed secession for financial and commercial reasons and on geographical grounds.

Near the middle of December Ben. T. Duval, of Sebastian, chairman of the Judiciary Committee of the House, presented a bill for a convention and read a report characterized by biting criticism of the North in general and the Black Republicans in particular. Evidently he was acting in concert with Governor Rector, for immediately a message was announced from him. The burden of this message was that the Union was gone forever, destroyed by "the madness and fanaticism of its children." The southern states were leaving it in defense of their institutions. If slavery should be abolished in Arkansas her fertile fields would become deserts, her people penniless and impoverished. For salvation she must follow the Lower South. There was no use to elect a United States Senator. The militia should be organized and supplies secured, not for war, but for preparedness.

Henry Clay, who three times had met a great crisis by compromise, was no more, but his successor, John J. Crittenden, was seeking to meet this one in the same way. He proposed to divide the Territory on the line of 36° 30′. Northern sentiment for a while ran strongly in favor of this, but when Seward, who was to be in Lincoln's cabinet, announced

3. *Tribune Almanac*, 1861, 53.
4. *House Journal*, 1860-61, 103f.

his opposition, Johnson and Hindman telegraphed advising the calling of a convention.

Events now happened in rapid succession. South Carolina had already seceded December 20. January 5 the "Star of the West" left New York carrying reinforcements to Major Anderson in Fort Sumter. January 8 President Buchanan, who in his previous message had said that neither he nor Congress had any right to coerce a State, sent a message to Congress indicating that he would protect the property of the United States, whenever attacked. The same day Johnson and Hindman issued an address to the people of Arkansas advising secession. January 9 Mississippi seceded and was followed by Florida January 10 and by Alabama January 11. The Senate had already passed the convention bill and now the House passed it and it became a law January 15. On February 18 the electors were to vote for or against a convention and to elect delegates.

Four states had already seceded. Three others, Georgia, Louisiana and Texas, joined them, and these seven organized the Confederacy at Montgomery and elected Jefferson Davis President. North Carolina voted down a convention. Virginia held one, but the convention voted down secession 88 to 55 and called a convention to meet in Washington February 4 to promote peace. Arkansas was not represented, but delegates from twenty-one states attended and proposed to Congress a division of the Territory on 36° 30′. This was not accepted by Congress, but before adjourning that body adopted an amendment providing that no amendment should ever be made to the Constitution giving Congress the power to abolish slavery in the states.

In Arkansas the sentiment for preparedness and secession was steadily gaining. Soon after the November election sixty artillerymen were moved from Kansas to Little Rock. The people of Helena offered the Governor 500 men to capture the arsenal, which was occupied by the United States soldiers. He refused, but promised that he would not allow any soldiers to be sent in. This did not satisfy the people and they gathered in Little Rock several hundred strong, mainly from Helena. In order to avoid bloodshed Governor Rector demanded (February 6) the surrender of the arsenal and Captain James Totten marched away under assurance that he would not be molested.

At the election the demand for a convention carried by a majority of 11,586 in a vote of 43,238. The convention was composed of an able body of men. Four members, Fishback, Flanagin, Garland and Murphy, afterwards became governors, two had sat on the Supreme Bench and two others afterwards did, while several served in the Confederate or the United States Congress, or both. Seven states had already withdrawn, had organized the Confederacy, and elected Jefferson Davis President. In his inaugural he denied that this was a revolutionary act. Rather, it

was a reassertion of the "inalienable" rights proclaimed July 4, 1776. He said the South was "doubly justified by the absence of wrong" on her part, and "by wanton aggression on the part of others." All they asked was to be allowed "peaceably to pursue our separate political career." But if this was denied and "the integrity of our territory and jurisdiction assailed, it will but remain for us with firm resolve to appeal to arms and invoke the blessings of Providence on a just cause."[5]

Probably most of the delegates had read this before assembling at Little Rock. While they were organizing (March 4) President Lincoln was appealing at Washington for the Union. Among other things he said: "I have no purpose, directly or indirectly, to interfere with the institution of slavery in the states where it exists. I believe that I have no lawful right to do so, and I have no inclination to so. . . . . A disruption of the Federal Union, heretofore only menaced, is now formidably attempted. I hold that in contemplation of universal law and the Constitution the Union of the States is perpetual . . . . and . . . . I shall take care . . . . that the laws of the Union be faithfully executed in all the States. . . . . In doing this there needs to be no bloodshed or violence, and there shall be none unless it be forced upon the national authority. Physically speaking, we cannot separate. . . . . My countrymen, one and all, think calmly and *well* upon this whole subject. Nothing valuable can be lost by taking time. . . . . In *your* hand, my dissatisfied fellow-countrymen, not in *mine*, is the momentous issue of Civil War. The Government will not assail *you*. You can have no conflict without being yourselves the aggressors. *You* have no oath registered in heaven to destroy the Government, while *I* shall have the most solemn one to 'preserve, protect, and defend' it."[6]

Probably two or three days elapsed before the members had a chance to read this message. Meantime organizations were perfected and the election of David Walker, of Fayetteville, showed that the anti-secessionists were in control. March 7 a resolution was introduced that Lincoln's message should be regarded as a "menace, involving the inhuman doctrine of coercion," but the convention refused to adopt it.

At this juncture a message was received from Governor Rector. He first argued for the right of secession and then said that slavery was the immediate cause of all the trouble. If the South wished to admit that slavery was sinful and should be abolished, she should remain in the Union. Some drew comfort from the promise not to molest slavery in the states, but they opposed it in the territories. The law of life is growth. "The area of slavery *must be extended correlative with its antagonism*, or it will be put speedily in the course of ultimate extinction. . . . . The extension of slavery is the vital point of the whole contro-

5. J. D. Richardson: *Messages and Papers of the Confederacy*, I, 33.
6. Richardson: *Messages and Papers of the Presidents*, VI, 5-12.

versy." He then said that the soil and climate of Arkansas was such that the productive part could not be successfully cultivated by white labor. "God in His omnipotent wisdom, I believe, created the cotton plant—the African slave—and the lower Mississippi Valley, to clothe and feed the world, and a gallant race of men and women produced upon its soil to defend it, and execute that decree." As for the Union, it was already destroyed. The only question for Arkansas was with which fragment would she cast in her lot.[7]

Two commissioners from Georgia and South Carolina had already arrived and a third, W. S. Oldham, formerly a resident of Arkansas, now of Texas, joined them as the personal representative of President Davis. He addressed the convention and presented a letter from President Davis urging Arkansas to join the Confederacy. The secessionists were now very active, some moving for immediate secession, some for a secession ordinance with popular referendum. Senator Robert W. Johnson, who had been influential in getting the convention called, addressed the members in support of immediate secession. In spite of this and another appeal from President Davis' representative, the convention voted down a resolution for secession with popular referendum, 35 to 39.[8] The citizens of Forts Smith and Van Buren were so much pleased with this that they fired a salute of thirty-nine guns in honor of the opposition.

The secessionists were defeated, but they did not despair. A referendum on "Coöperation" or "Secession" was proposed by B. C. Totten, of Prairie County. This meant that the convention was to vote secession, if the popular majorty favored; if "Coöperation" prevailed, then the convention was to do its best in conjunction with the border states to effect a satisfactory and permanent settlement of the controversy. This was adopted and August 5 was agreed upon for the election. Before adjourning the convention accepted the invitation of Missouri and Virgina to send delegates to a Border State Convention. Also, it endorsed a set of resolutions offered by H. E. Thomason, of Crawford, as a basis for discussion. They were for amendments to the Constitution providing for: (1) the election of the President from the free and slave states in alternation; (2) the adoption of 36° 30′ as the dividing line in the Territory; (3) the denial to Congress of any power over slavery except to protect it; (4) payment for every fugitive slave by Congress when a mob prevented the marshal from arresting him or rescued him after arrest and caused his escape; (5) guaranteeing the right to take slaves into free territory temporarily; (6) denial of the suffrage to negroes everywhere; (7) safeguarding the provisions given above, the clause providing for counting three-fifth of the slaves in the basis for representation, and the

7. Journal of the Convention (1860), 44.
8. *Ibid.*, 82.

clause for rendition of fugitive slaves from amendment except by consent of all the states. August 19 was agreed upon for the reassembling of the convention, but the president could call it earlier, if conditions should make it imperative.

Soon after withdrawing from the Union South Carolina had sent commissions to negotiate with President Buchanan about the fort and other property of the United States within her border. Shortly after its organization the convention at Montgomery voted that Forts Sumter and Pickens should be secured by negotiation or by force and President Davis sent a commission to Washington for negotiation. They sought to approach Lincoln through his Secretary of State, William H. Seward. That gentleman refused to receive them officially, but communicated with them several times through Senator W. M. Gwinn, of California, and Justices J. R. P. Campbell and William R. Nelson, of the Supreme Court.

Lincoln had been in Congress only one term and had had no experience in administering affairs of large concern. Washington and the country as a whole was in confusion and it is no wonder that the new President was somewhat bewildered by the situation. Seward had had years of experience in the National Capital, stood high in the councils of his party, and seems to have thought that he could mark out a policy for the administration. Without authority from Lincoln he led the Confederate Commissioners to believe that Fort Sumter would be evacuated. Even General Winfield Scott advised it. At a cabinet meeting (March 28) Chase, Cameron and Welles advised relief, Seward and Smith favored evacuation, and Bates was non-committal. Lincoln now made up his mind for relief and ordered that a relief expedition be prepared at once. Seward now told the commissioners that they would be informed if relief was sent, but left the impression that evacuation might be expected. April 8 the relief expedition sailed from New York and Governor Pickens was promptly notified.

When President Davis received this news he called his cabinet to discuss the situation. All agreed that they had a right to capture the fort, for it was inconsistent that a foreign power should hold a part of the Confederate territory; the majority advised taking it at once, but Robert Toombs, Secretary of State, advised delay. He said that an attack would unify the North, where they had many friends. The reply was that the attack would unify the South, bringing in the rest of the slave states. This idea prevailed and Major Robert Anderson was called on to surrender. He replied that he would be forced out in a few days, if he did not get supplies. General Beauregard was now authorized to use his own discretion about firing or waiting for starvation to drive Anderson out. The major now offered to retire by April 15, if he did not receive supplies, or orders to the contrary. This offer was rejected by

the commissioners sent to demand surrender, among them Roger A. Pryor, of Virginia, who told the South Carolinians that capture of the fort would bring Virginia into the Confederacy. The order for bombardment was now issued and in the early dawn of April 12 the first shot was fired which started a devasting war of four years' duration.

The predictions made in the Confederate Cabinet were almost completely fulfilled so far as concerned the North, only partly so as to the South, for four slave-holding states never joined the Confederacy. The next day after Anderson marched out President Lincoln issued a call (April 15) for 75,000 men to suppress combinations opposing the execution of the laws of the United States and commanded all persons in such combinations to disperse within twenty days. This was followed (April 19) by a proclamation declaring that an insurrection existed in seven states and those states were declared in a state of blockade.

Several of the members of the Arkansas convention who opposed secession had said that they would favor withdrawing, if any attempt was made to coerce the states which had formed the Confederacy. Lincoln's action could mean nothing else than an intention to use force, whether against states or the individuals composing the states was a matter of small moment, and when Governor Rector received a request for a regiment to help in this work, he replied:

> The people of this commonwealth are free men, not slaves, and will defend to the last extremity their honor, lives, and property against Northern mendacity and usurpation.

The Legislature had authorized the Governor to procure arms and he had taken steps to do so. He now sent a force to Fort Smith to seize the arsenal.[10] Individuals offered their services to the Confederacy and Colonel T. B. Flournoy, who had refused to withdraw from the convention at Charleston, proceeded to organize a regiment and soon had it ready for action.

The secession flame did not need much fanning, but Senator Johnson, Robert C. Newton, and T. C. Hindman stumped the State on the "issues of the day." They paid particular attention to the counties which had sent up anti-secessionist delegates to the convention. Acting on the authority given him by the convention President Walker called that body to meet again May 6. Soon after it was called to order a motion was made for secession. Everybody present, the spectators as well as the members, was impressed with the solemnity of the occasion. When the roll call was finished the vote stood sixty-five to five and the announcement was greeted with tremendous applause. Bolinger and Murphy, of Newton, Campbell, of Searcy, Gunter, of Washington, and Kelley, of Pike, had voted "no." In response to an appeal from President Walker to make it unanimous four came over, but Murphy remained obdurate[11]

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10. Van Buren *Press*, April 24, 1861.
11. Journal of the Convention, 123-24.

and later became the first loyal Governor. The convention then ratified the Provisional Constitution of the Confederacy and elected five delegates to represent the State: Robert W. Johnson, A. H. Garland, Albert Rust, H. F. Thomason, and W. W. Watkins.

What caused the secession of Arkansas? When Governor Rector appealed to the convention to secede in defense of slavery they refused to follow his guidance. The majority of the people had no personal interest in slavery, but when President Lincoln called on the State to help coerce the Lower South and force them back into the Union, the people of Arkansas decided that, if they had to fight, they would fight with, not against, their neighbors, friends and kindred.

The normal thing for the convention to have done at this juncture was to adjourn, but it remained in session until June 3. The probable reason for doing so was because it was dominated by the "Johnson Family" and wished to humiliate Governor Rector. It amended the Constitution in several particulars, one of which shortened the term of the Governor while that of other officials was not. It invited the Governor to "communicate any views" he desired. He accepted the invitation and told them of the condition of the militia, of the military supplies on hand, and of an unexpended balance of $63,045.74 in the treasury out of $100,000 appropriated by the last Legislature for military preparation. He made some recommendations about what to do, but the convention paid little attention to his advice. They elected military officers and gave them directions. They created a military board of three, but were considerate enough of the Governor to make him chairman. They appropriated $2,000,000 (to be raised by bonds) and authorized the board to call out 30,000 men, and if necessary, "the whole force of the State." They also provided for the creation of the "Army of Arkansas" and directed what should be done when President Davis called for volunteers. Governor Rector reminded the convention that, under the Constitution, he was commander-in-chief, but said that he wished to avoid friction while the country was in danger and would submit. The answer of the convention was to suspend the parts of the Constitution which conflicted with its actions.[12]

Soon after the convention adjourned the military board, with the approval of the Governor, called for 10,000 volunteers for a year of State service. This was immediately followed by a call from General Ben. McCullock, representing the Secretary of War, for all able bodied men of the State to volunteer for Confederate service. Governor Rector now reminded the Secretary of War that this was a violation of states' rights, that even President Lincoln had called on him, not on the people, for troops. There was some improvement in the situation, but this did not prevent confusion, especially in the northwest. Governor Rector wished

12. Journal of the Convention, 192-93, 234, 248.

to save the State the expense of maintaining the troops and consequently favored transferring them to the Confederacy, yet he feared that, once transferred, they would be taken east of the Mississippi River and the State would thus be left without defenders. The military board decided to leave it to the men and all but 20 out of 3,000 decided to go home. They did this, not because they were slackers, but because, as they said, they had driven the enemy away (at Oak Hills), had received no pay, and were "naked and barefooted." After returning home many of them reëntered the service.

The Confederate exemption laws called forth a good deal of criticism. It exempted Confederate and State officials, telegraph operators, ministers, teachers, apothecaries, etc. The teaching profession now became crowded, pharmacists multiplied, and many even felt a call to preach. The "twenty nigger" law was very odious to the men in service and to the small farmers. This law exempted one white man on each plantation with twenty or more slaves.[13] This was intended to promote the production of essential supplies, but to many it looked like "The rich man's war, the poor man's fight."

In spite of bickerings and discontent Arkansas had 21,500 troops enrolled by the end of 1861, nearly half the number of voters of the preceding year. Only South Carolina and Virginia exceeded her in the ratio of troops to population. In 1864 she had three times as many troops east of the Mississippi as were then defending her own soil, although more than half of it was in the possession of the enemy.

13. Public Laws of the Confederate States, 1st Cong., 79. Act of October 11, 1862.

CHAPTER XV.

UNDER THE CONFEDERATE FLAG.[1]

By David Y. Thomas.

Two essentials for carrying on war are money and supplies of various kinds. When Arkansas seceded she had in her treasury $216,277.74 in specie. She seized United States property of various kinds amounting to not more than $250,000, a part of which was used to meet obligation of the United States to her own citizens. The convention authorized a bond issue of $2,000,000 at eight per cent. and the issue of the treasury warrants bearing eight per cent. interest when the treasury was empty. It also levied additional taxes, including an income tax of ten per cent. The first Confederate demand upon the State amounted to $750,000. The Legislature recognized this (November, 1861), and took steps for its collection, but only $400,000 had been collected up to the close of 1862. The tithe, or ten per cent. produce tax and the produce loan, brought in a good deal of cotton for the Confederacy. After the troops were transferred to the Confederacy the Legislature repealed some of the taxes laid by the convention and suspended the issuance of bonds. In December, 1862, it actually suspended the collection of State taxes and ordered the refunding of those already collected.

Before adjourning, the Legislature, which met in November, 1860, appropriated $100,000 to buy arms and some were secured from the North before that trade was closed. The United States arms that were seized amounted to about 10,000 stand, but were old and of little value. Munitions were often scarce and sometimes of an inferior quality, especially those made west of the Mississippi. Scarcity or inferiority was the excuse given several times for retiring from the battlefield. The railroad shops at Hopefield, opposite Memphis, were used for repairing guns until Memphis was captured. Caissons, wagons, harness, tents, knapsacks, boots, shoes, and clothing were manufactured at the penitentiary. After the capture of Little Rock some of this same work was carried on at Camden, Washington, and Arkadelphia.

The civilian population, as well as the soldiers, had to be considered. To encourage the growth of food crops the Legislature inposed a tax of $30 a bale on cotton (1862) and limited the amount of land that might be planted in cotton and it was reported that 50,000 acres hitherto devoted to cotton had been planted in corn. The distillation of grain and potatoes into spirituous liquors was forbidden.

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1. For an account of the military operations see special chapter covering this subject.



REAR VIEW OF FOURTH DISTRICT AGRICULTURAL SCHOOL, MONTICELLO



BIRD'S-EYE VIEW OF MONTICELLO

The other supplies, especially clothing for civilians and soldiers, became a pressing problem. The sum of $300,000 was appropriated in 1862 to be loaned by the Governor to provide for the manufacture of salt, iron, and cotton cards, the last to be used in home manufacture. In 1864 there was one factory in Columbia County for the manufacture of cotton and wool cards, but it is unknown whether it profited by the act of the Legislature or not. That year $35,000 was given the Governor to buy and sell cotton and wool cards, drugs, and medicine. The Legislature went so far as to authorize him to put the State in the manufacturing business and to fix prices, and appropriated $1,000,000 for this purpose. But the money was not in the treasury and nothing came of it. As a further encouragement for the making of cloth gold medals were offered to women for the winners in spinning and weaving contests. Societies were organized among the women under various names to make clothing and to knit for the soldiers.

As the war progressed prices advanced. This was due to three causes—scarcity, profiteering, and a depreciated currency. The Confederate government took the position that price regulation, if done at all, was a matter for the State. Governor Rector at first opposed any such interference with business and when Colonel Solon Borland issued a proclamation for the purpose of restraining forestallers and profiteers he issued another annulling it. Later, however, he did not interfere when Colonel R. C. Newton fixed the price of necessities (June 20, 1862). In several cases the prices were lower than for the same articles in 1930, but this did not last. By October, 1864, Confederate notes had dropped to two cents on the dollar and flour cost $300 per 100 pounds, meal $50 to $60 per bushel.

Not long after getting the convention off his hands Governor Rector came into conflict with the Confederate military authorities. General T. C. Hindman, of Helena, had been assigned to the chief command in the State. He had supported Rector in 1860, but now became dissatisfied and declared martial law, his excuse being "the virtual abdication of the civil authorities and the reign of profiteering." The Governor had fled from Little Rock when General Samuel R. Curtis (Union) appeared at Batesville (May 4, 1862). For this he was severely criticised by Richard H. Johnson in the "True Democrat" and for this Governor Rector, who had sworn to uphold the law, violated the law and sent a challenge for a duel, but the duel never came off.[2] The Governor and the Arkansas delegation in Congress protested to the War Department and got General T. H. Holmes substituted for Hindman. Holmes, however, did not make any very radical changes in Hindman's policy until ordered to do so by Secretary G. W. Randolph. President Davis finally became con-

2. *The True Democrat* (Little Rock), May 29, 1862.

vinced that something was wrong and appealed to the Governor and Legislature for laws "to suppress the shameful extortions now practiced upon the people by men who can be reached by no moral influence, and who are worse enemies of the Confederacy than if found in arms among the invading force." Meeting with no response in Arkansas he suspended the writ of habeas corpus in the State, but directed General Holmes not to interfere with persons and property any more than was necessary for defense and military discipline.

Under the constitution of 1836 officers were elected for four years. The convention of 1861 decreed that certain officials whom they named should hold office until the expiration of their terms, but they did not name the Governor. The constitution as amended fixed the first Monday in October, 1862, as the date for electing "officers not otherwise provided for." By this move the "Johnson Family" reduced Governor Rector's term to two years.

Apparently Rector had not noticed this. When he showed no signs of calling an election C. C. Danley and Richard H. Johnson, whom Rector had defeated in 1860, secured from the Supreme Court a writ of mandamus to the sheriff to hold such election.[3] Governor Rector had not intended to run again at the end of his four-year term, but he now called an election and announced his candidacy. Johnson himself did not run, but his friends brought out General Harris Flanagin, who was then with the army in Tennessee. Flanagin is said never to have heard of this until a few days before the election, but he was elected by a vote of 18,189 to 7,419 for Rector and 708 for J. S. H. Raines. Although his term did not expire until November 15, Rector resigned in disgust November 4 and Thomas Fletcher, President of the Senate, acted as Governor until the 15th, when Flanagin was inaugurated.

When the Federals captured Little Rock (September 10, 1863) Governor Flanagin moved the seat of government to Washington. Some of the acts of the Legislature in Flanagin's term have already been mentioned. So much of the State was in Federal control that it was hard to get a quorum of the Legislature at the new Capitol. In order to facilitate elections a law was passed allowing ten refugees to assemble in a precinct and hold an election and allowing soldiers to vote in the camp. Governor Flanagin declared that the liquor traffic was demoralizing and leading to violence and demanded stricter prohibition, but the Legislature made no response. It did extend the death penalty to about fifteen crimes, including horse stealing, burglary, and counterfeiting.[4] The last session was held in September, 1864.

Senator William K. Sebastian was the only holdover member of Congress in 1861. He did not go to witness the inauguration of Lincoln, nor did he attend the called session in July. He was then expelled by the

3. 24 Arkansas Reports, 1-6, 78ff.
4. Acts of 1864, 13-14.

Senate, but the expulsion was revoked in 1867 and his salary was paid to his heirs. Meantime he had died at Memphis, May 20, 1865. The election for President and Vice-President of the Confederacy and for members of Congress was held in November, 1861. Davis and Stephens were elected without opposition. Felix I. Batson, Grandison D. Royston, Thomas H. Hanley and A. H. Garland were elected to the House. J. P. Johnson contested the election of Garland, but finally gave up. In 1863 Batson, Garland, and Hanley were reëlected and R. K. Garland succeeded Royston. David W. Carroll took A. H. Garland's place when he was elevated to the Senate. Robert W. Johnson and Charles B. Mitchell were elected to the Senate. Upon the death of the latter in 1864, A. H. Garland was chosen to succeed him. Three of the Representatives, Batson, Hanley and Carroll stayed in Richmond until the approach of Grant's army forced Congress to break up (March 18, 1865). Senator Garland had left early in March for Arkansas.

When Mr. Garland reached home he found the State government on its last legs. Governor Flanagin asked Senator Garland to open negotiations with General J. J. Reynolds, commander of the Federal forces, with a view to the restoration of peace and order. He proposed to convene the Confederate Legislature for the repeal of all laws hostile to the Union and for coöperation with the Murphy government in calling a convention with a view to establishing a State government such as Congress would recognize. General Reynolds, however, refused to receive any agent of Governor Flanagin and announced that he would not allow the Legislature to meet. Nor would he recognize any of the county officials, or allow them to stand for election until they had been pardoned by the President. Neither would he allow a convention to be held where the disloyal should meet the loyal on terms of equality, since this would result in a State government controlled by the same men who controlled it previous to 1861. But Governor Flanagin was allowed to deliver the archives in person and was not molested when he retired to his home in Arkadelphia.[5] *Sic transit gloria Confederationis.*

5. *Official Records, War of the Rebellion,* Series I, Vol. XLVIII, pt. II, 626-31.

PART II—1865-1930

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CHAPTER XVI.

PRESIDENTIAL RECONSTRUCTION.

Since the political history of Arkansas during the Civil War period has been related elsewhere in this work, we are concerned here with only those phases of that subject which had particular bearing on the movements leading to the organization of a State government loyal to the United States. As the Federal authority was advanced into the State by the Union military forces, the Confederate civil authorities, State and local, ceased to function or exercised their functions very irregularly. With the occupation of Helena by General Samuel R. Curtis (June, 1862), most of the State north of the Arkansas River fell under the somewhat uncertain domination of the Union forces. President Lincoln at once appointed John S. Phelps, of Missouri, military governor of Arkansas, and that gentleman left St. Louis August 19, 1862, to take up his new task. But the movement was premature and Phelps returned to Missouri without having accomplished anything.

The capture of Little Rock (September 10, 1863), produced a great moral effect and progress in replacing Confederate authorities was rapid enough to encourage Unionists, original and recently converted, to start a movement to organize a State government sufficiently loyal to secure the return of the State to its place in the Union.

Writers, contemporary and later, have differed seriously as to the numerical strength and social significance of the friends of that movement. For the most part they resided in those sections of the State least affected by the institution of chattel slavery. Here were found most of the genuine Unionists, and there was little doubt of their interest in the movement, but it is quite clear that in many cases professed loyalty to the Federal government was a matter of political expediency. The movement began in irregular mass meetings and local conventions during 1863, and by the close of that year, with the encouragement in most cases of the Federal military authorities, delegates had been chosen to meet in convention at Little Rock to frame a State constitution embodying the conditions which President Lincoln had prescribed in his amnesty proclamation (December 8, 1863), for the recognition of a late insurrectionary State by the Chief Executive of the United States.

On January 4, 1864, the delegates-elect assembled at Little Rock. The forty-five delegates who at some stage of the proceedings answered at roll call claimed to represent twenty-three counties. There were enough present on the opening day to elect John McCoy, of Newton County, chairman, and Robert J. T. White, of Crawford County, secretary. But

after organizing eight days elapsed before they were able to transact business of consequence. After a number of irregular meetings the Committee on Credentials agreed on the delegates to be seated and the body when organized secured the official endorsement of Colonel Andrews, the Federal officer in command at Little Rock. It required a vast deal of such support to commend the convention to the genuine Unionists of the State, and Confederate sympathizers looked on the assemblage as a group of traitorous sons. However, President Lincoln gave his support to the enterprise and the Federal military officers afforded adequate local protection.

From the outset the delegates, assuming that they were empowered to enact legislation, as well as frame a constitution, proceeded to pass ordinances to fix their own per diem, to regulate public education, to check Confederate guerrillaing, jayhawking and bushwacking. By the same method they made the violation of the oath prescribed in the President's proclamation of December 8, 1863, perjury; they prohibited the importation of free negroes into the State, and made it mandatory on the Legislature to provide for the rigid enforcement of the provisions regulating freed negroes and mulattoes. While engaged in passing ordinances the convention set up a provisional State government, fixed the compensation of the officers thereof, elected the officers provided for, and authorized the Governor to negotiate a loan of not more than $150,000. January 20, Isaac Murphy and C. C. Bliss were chosen Provisional Governor and Provisional Secretary of State, respectively.[1]

As adopted, the proposed constitution was the old constitution modified to embody the legitimate results of the war as thus far determined. Such being the avowed intention of the committee which reported it to the convention, the new instrument declared null and void the ordinance of secession of 1861 and all actions taken under the authority thereof except those affecting individual rights, county boundaries, county seats, acts of justices of the peace, administration of oaths, legal acknowledgments and marriages. The declaration of rights was changed to include others as well as whites. All laws in force on March 4, 1861, and not inconsistent with the new constitution, were declared in full effect. The qualifications of electors were changed only to permit soldiers to vote in their respective departments. Slavery was abolished and the indenture of negroes prohibited. The schedule provided that adult white males, including volunteer soldiers, who had taken the oath prescribed in the Presidential proclamation of December 8, 1863, might vote on the second Monday of March on the question of ratifying the constitution and for the election of State officers.[2]

Six weeks before the election the convention adjourned and the can-

1. Journal of the Convention, 38.
2. Poore: *Federal and State Constitutions*, Pt. I, 126.

vass began. Those in sympathy with the Confederate cause opposed, and the friends of the Union supported, ratification. General Frederick Steele, in command of the Federal forces at Little Rock, heartily supported the Unionists and a group of self-appointed local citizens journeyed to Washington, D. C., to secure support from that quarter. Apparently President Lincoln was won over, and on their way home the committee issued from Memphis an appeal to the people of Arkansas to join the movement for returning the State to the Union by voting for the constitution.[3] The Confederates were equally active in trying to block the election. The outcome was a very irregular election, but since, by the Presidential proclamation of the preceding year, it was necessary to secure only 5,406 affirmative votes to carry ratification, and 12,177 such votes were cast, the friends of ratification claimed a great victory for loyalty and union. In the election for State officers Isaac Murphy was chosen Governor; Robert J. T. White, Secretary of State; James R. Berry, Auditor; E. D. Ayers, Treasurer; Charles T. Jordan, Attorney-General; T. D. W. Yonley Chief Justice, and Charles A. Harper and Elisha Baxter Associate Justices. As members of Congress William Byers was chosen in the First District, Gayle H. Kyle in the Second, and James M. Johnson in the Third. Members of the General Assembly were elected at the same time.

All the well-established forms had been observed and there remained only the task of assembling the governmental machinery, energizing the whole, and drawing to it popular support sufficient to make it republican in form. The provisional government remained a mere form. The fifteenth session of the General Assembly met at Little Rock on April 11, 1864, and organized by electing C. C. Bliss, of Independence County, President of the Senate, and H. B. Allis, of Jefferson County, Speaker of the House. The roster of members of the Senate appears to have been complete, while nine counties had no representative in the House. Three sessions were held by this body: From April 11 to June 2, 1864; from November 9, 1864, to June 3, 1865; and from April 3 to April 22, 1865. April 18 Isaac Murphy was inaugurated as Governor and the other State officers-elect were inducted into office. The Governor delivered a sane, hopeful, conciliatory address setting forth the principles on which sound restoration might proceed in the State.[4]

The legislative output of the first session was not imposing. Acts were passed creating a State seal, regulating the currency, prescribing regulations for ferries, regulating the holding of elections, defining the criminal jurisdiction of justices of the peace, and prescribing the mode of keeping the public records. Of major interest were acts to raise a military force to defend the State, to aid the civil authorities in the preven-

3. *National Democrat,* February 20, 1864.
4. Staples, T. S.: *Reconstruction in Arkansas,* 47, quoting inaugural address.

tion of bushwhacking, to pay the military staff of the Governor, making appropriations for 1864, 1865 and part of 1866, making auditor's warrants bear interest and receivable for debts due the State, and providing for the removal of places for holding county courts under certain circumstances. At this session Elisha Baxter was elected on the fourth ballot to the United States Senate, and after a bitter contest William Fishback was elected on the twenty-first ballot to the same body. By joint action the two houses petitioned Congress for a military commission to adjust and pay claims of loyal citizens against the United States and requested the local Federal military authorities to levy a tax on rebel property for the support of loyal refugees. As a matter of support for the government under which they were acting the Senate adopted a report of its Committee on Federal Relations giving the history of the free State movement in Arkansas.[5]

The situation in Arkansas during 1864 was not favorable to normal State government loyal to the United States. The loyalties of the people, as well as the territory of the State, were divided between the Confederate State government headed by Governor Harris Flanagin with his capital at Washington, Hempstead County, and the Murphy government with its capital at Little Rock. Roughly, the northern half of the State was dominated by Unionists and the southern half by Confederates. Moreover, the loyalism of 1864 was often an intangible thing, and Governor Murphy expressed doubt about the loyalty of many professed Unionists. Irregular warfare on the part of both Confederates and Unionists, verging near guerrilla activities and bushwhacking, prevailed throughout the year. Raids and counter raids kept the people in an unsettled state. While food conditions were hard in the sections held permanently by the Federals, they were not distressing; but in the southern half of the State the masses suffered keenly. Organized business had collapsed, means of transportation were lacking, farm stock had become scarce, and negroes were demoralized as laborers, cotton agents were driving a thriving trade, and the major interest of the leaders was centered in the military aspects of the war. The Federal military campaign into South Arkansas proved especially demoralizing to the civilian population in that region.[6] For the most part the direction of civil affairs was in the hands of untried, if not unknown, men.

The second session of this Legislature accomplished little of consequence. Three weeks elapsed before the Senate claimed a quorum and an additional week was required to secure a quorum in the House of Representatives. The problem of securing a quorum proved so difficult that a representative submitted in writing elaborate reasons why he should be excused from a further waste of time in attending the meetings.[7]

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5. *Senate Journal*, 1864-65, 199.
6. Staples, T. S.: *Reconstruction in Arkansas*, 48 ff.
7. *House Journal*, 1864-65, 194.

When finally they were prepared to transact business they repealed a supplementary revenue act and a supplementary act to regulate the currency, passed at the previous session, and passed over the Governor's vigorous veto two new revenue measures. At the first session an act to appoint a financial agent for the State and to authorize a loan was passed over an executive veto.[8] Appropriations were made to pay members of the General Assembly and the salaries of State officers. A memorial was addressed to Congress to recognize Arkansas as ready for readmission to the Union, and W. D. Snow was elected to succeed Elisha Baxter in the United States Senate on March 4, 1865. Sufficient friction developed between the legislative body and the Governor to lead the latter into a merciless criticism of sinister influences in the former.[9]

The third session of the lawmaking body, called to meet on April 3, 1865, to consider the proposed Thirteenth Amendment to the Constitution of the United States, had difficulty in getting under way. The House was not able to join the Senate in notifying the Governor of their readiness to receive his official communications before April 11, the earliest date on which the Senate had been able to secure a quorum even with the assistance of the military authorities. There is serious doubt whether the House ever had a legal quoroum.[10] As part of their proceedings ample notice was taken of the triumph of the Federal military forces, fitting resolutions were passed on the assassination of President Lincoln, and a lively interest shown in the attitude of Congress on recognizing the State. Slight interest was shown in messages from the executive except the message in which he laid before them the proposed Thirteenth Amendment. This was ratified unanimously. They adjourned on April 22, 1865.

In the course of 1864 the Federal government began resuming its civil functions in the State. The Federal District Court for the Eastern District was opened in December with Colonel Henry C. Caldwell, of Iowa, as judge; Charles P. Redmond, district attorney; Robert J. T. White, clerk, and W. O. Stoddard, marshal. Corresponding officers were appointed for the Western District, and Enoch H. Vance was appointed internal revenue collector for the District of Arkansas.

The reëstablishment of county and local governments proved a more difficult problem. During 1864 a few county elections were held, but not one was regular. While by the end of that year a full corps of officers had been commissioned there is no evidence that they were commissioned on the basis of election. A majority of the counties had no regular civil officers before the spring of 1865. Recognition from Washington seemed to hang fire until Andrew Johnson succeeded to the Presidency and assured Murphy that there would be no interference with the situa-

8. *House Journal*, 1864-65, 169.
9. *Senate Journal*, 1864-65, 277, 299, 302.
10. *House Journal*, 1864-65, 16-21.

tion in Arkansas. From that time the Governor sought earnestly to get capable and worthy men to accept office, but by that period the men who had supported the Confederacy to the bitter end were advocating the establishment of a government independent of the one headed by Murphy. It was far into 1865 before the Governor could get judges and prosecuting attorneys installed in all the circuits. Peace officers, when provided at all, were subordinate to the military authorities. The assessment and collection of taxes were done in a most irregular fashion. Crops of 1864 had been very short and those of 1865 but little better, and yet taxes to the amount of $293,043.86 had been collected by November, 1866. On the other hand disbursements of only $170,000, or a little more than half of that appropriated, were made in the two and one-half years of the government. Peace was returning to the land, but every effort to secure the recognition of Congress had failed and the chances of future recognition were growing weaker each day.

Moreover, it was becoming clear that Congress would evolve a plan of Reconstruction of its own which in all probability would upset the work accomplished under the constitution of 1864. On assembling in December, 1865, Congress created a joint committee of fifteen to diagnose the situation in the South and to serve as a burial ground for all propositions relating to that section until a plan should be evolved whereby Congress could determine the policy of Reconstruction, the Republican party be secured in power and the extreme radicals in control of that party. This committee divided its task by territory to subcommittees, the one to investigate Arkansas being composed of Senator Ira Harris, of New York, and Representative George S. Boutwell, of Massachusetts, and Justin S. Morrill, of Vermont. The subcommittee had its meeting in Washington, where their investigations were limited to the testimony of sixteen witnesses, only three of whom were qualified by residence, or otherwise, to give reliable information. The other thirteen were interested in the Murphy government as army officers, officeholders, or office-seekers. On the whole the testimony made out a good case for the State's claims to recognition. The conservatives, or old-time Democrats and Whigs, directed their efforts to the same end, with the purpose of ignoring Murphy and securing control as soon as recognition should be extended. To that end they laid plans for the State election of 1866.

At the general election of August, 1866, the conservatives' triumph was complete, not a member of the preceding Legislature being reëlected. William Byers was the only Congressman reëlected. Of the 34,407 votes cast for Auditor, Miller, a Unionist, received 15,214; Fagan, a Unionist of a different stripe, received 12,690, and Berry, the straightout Republican, received only 6,476.[11] L. B. Cunningham was elected Treas-

11. Ann. Cyc., 1866, 31.

uerer, and J. J. Clendenin and David Walker Justices of the Supreme Court. Neither group thought of the freedmen as a political factor. There was then some hope of ultimate conservative control; but already developments in the Congressional campaign had brought President Johnson, who endorsed the Murphy régime, and the radical Republicans, who opposed that order, into a bitter struggle for mastery, and prospects grew constantly brighter for radical success.

When it became evident that the radical Republicans would have a majority in the next Congress sufficient to override Johnson's opposition and set aside Reconstruction as thus far accomplished, conservatives in Arkansas set about undoing the legislative work of the Murphy régime and placing the State as nearly as possible on its pre-war basis. On November 5, 1866, the recently elected General Assembly met in Little Rock and organized by electing Dr. Andrew Hunter President of the Senate and Bradley Bunch as Speaker of the House. Governor Murphy was completely out of their confidence, they out of his. He had caught the spirit of the radicals in his party and was now charging that recently a proscriptive party had become so active as to threaten an appeal to arms and a renewal of the Civil War in a different shape. On their part conservatives charged the Governor with organizing military bands in the western counties for partisan purposes.

During the four and one-half months of this session a vast mass of local legislation was enacted. Numerous acts were passed for the incorporation of churches, schools, manufacturing establishments, insurance companies, cities, and railroads. A great number of relief acts received the approval of the Governor. Of major importance were acts relieving persons bound by contract to pay Confederate money, declaring the rights of persons of color, legalizing marriages of colored persons, and regulating the labor system in the State. A general law was enacted to encourage manufactures, a public school system created, a school for the blind located and provided for, and appropriations made for all departments of the government. On issues involving any degree of recognition of the Confederacy or acts done thereunder friction arose between the Governor and the Legislature. Over the executive veto acts were passed to confirm deeds made to school lands during the war, to loan the credit of the State in the construction of railroads, and to erect additional buildings at the penitentiary. A general amnesty and pardon law and laws for the relief of General Patrick Cleburne's estate and the support of disabled soldiers and dependents were also passed over the Governor's objections.[12]. The temper of the conservatives was displayed in their vote of resolution of thanks to President Johnson for his policy of moderation, and a similar resolution of thanks to Jefferson Davis for his conduct of the Confederacy was referred to the Committee on Federal relations.

12. Acts of Arkansas, 1866-67, *passim*.

Articles of impeachment were voted against two circuit judges, and July 15 was set for their trial. For the term beginning March 4, 1867, Augustus H. Garland was elected to the United States Senate. The Legislature, having declared the election of W. D. Snow as United States Senator invalid, now elected John T. Jones to fill the vacancy. The act which afforded the lawmakers their greatest pleasure was their rejection of the Fourteenth Amendment by a vote of one to twenty-four in the Senate and two to sixty-two in the House.[13]

Before the Legislature adjourned Congress passed the acts under which all the late Confederate states were to be reconstructed. By these acts the South was divided into five military districts, Arkansas and Mississippi composing the fourth. Over each district was set a military officer not below the rank of brigadier-general, clothed with power to control, modify or supersede the civil agencies, to institute military tribunals, and to set in motion the machinery which would create in each State a new political people and produce a State government acceptable to Congress. President Johnson assigned to the Fourth District General E. O. C. Ord, and C. H. Smith was placed in charge of the subdistricts of Arkansas with headquarters at Little Rock.

13. *Senate Journal,* 191.

CHAPTER XVII.

PRESIDENTIAL RECONSTRUCTION OVERTURNED.

Ord was by nature conservative and inclined to support President Johnson in his construction of the Reconstruction acts. He superseded civil officers when they failed to conform rigidly to military orders. Murphy was brought into rigid subordination and the Legislature was ordered not to meet on the date to which it had adjourned. John R. Fellows and a few other members met in spite of this order, asked General Smith, commanding at Little Rock, if he meant to enforce it. When he replied in the affirmative, they drew up a protest and went home.[1] State laws considered inequitable or obstructive of the Congressional policy were set aside, and no further elections were allowed until a registration of the voters should be completed. In July the general announced that any officer who, by speech or demonstration, obstructed the Reconstruction measures would be removed. This was sufficient to whip public officials into line with the radicals in Congress. The State Treasurer was removed, the courts closely supervised, and all cases in which the defendant should submit two affidavits that he could not secure justice because he had been a Union man were transferred to military headquarters for decision. Most criminal cases between whites and negroes involving loss of life or intent to kill were ordered to General Smith's headquarters. Agents of the Freedmen's Bureau and army officers served as informers for the general. Trial by military commissions was roundly denounced by the Conservatives, but it does not appear that the liberties of the people suffered greatly.[2]

The political Reconstruction of the State started with the registration of voters. For that purpose the State was divided into eleven supervisory districts and the actual registering in each county was performed by a registration board of two army officers and one "respectable citizen." Before registration began a group of radical Unionists met in Little Rock to organize the Republican party to assist in getting the enrollment of voters done properly. It was difficult to find well qualified men to serve on many of the boards, instructions to the registrars were repeatedly changed, and with successive changes it was required that the law be more strictly interpreted in determining the eligibility of registrants. Through such methods most of the ex-Confederates were disfranchised, while the army officers, bureau agents and the negroes were enrolled in great numbers. The negroes were assured of ample protection if they offered to register, and agents were sent to the populous

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1. *House Journal*, 1861, 1007-09.
2. Staples: *Reconstruction in Arkansas*, 127-53.

negro communities to tell the blacks that the object of enrolling them was to give them an equal chance with the whites in the selection of officers. Where Conservatives qualified for enrollment in numbers capable of outvoting the Radicals, the board of revisors eliminated at will without appeal.[3]

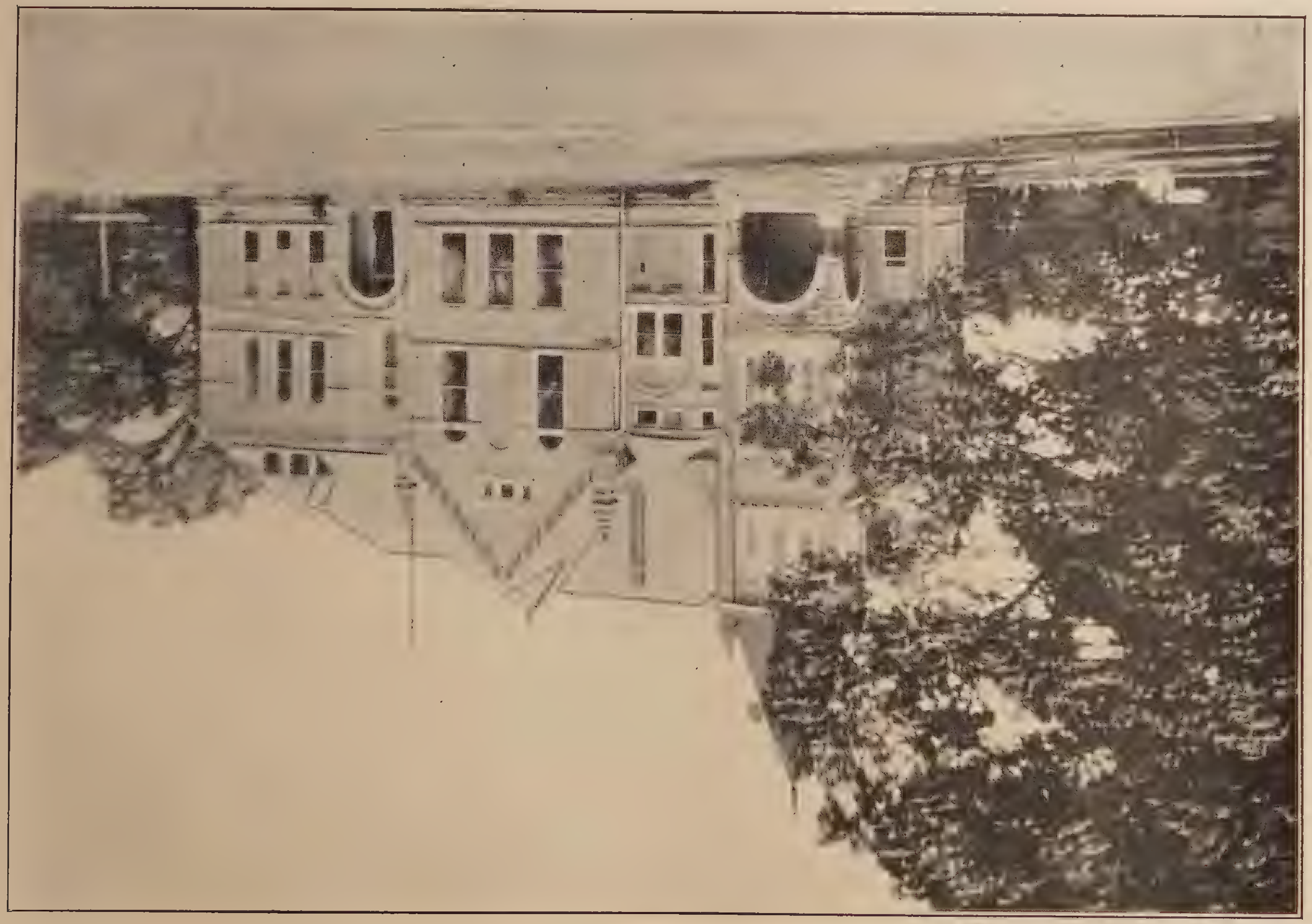
After registration came the election to determine whether a constitutional convention should be held and for delegates to such convention. The commanding general apportioned representation to the counties, and a lively canvass followed between the recently organized Republicans and all the conservative elements. The issue before the electorate was to the Republicans the Congressional policy and to the Conservatives negro suffrage and negro rule. Heat and passion marked the temper of both sides, the Republicans defending negro suffrage as sound in principle and absolutely necessary, while Conservatives denounced it as unconstitutional and designed to secure enough votes to keep the Radicals in power. Regular party methods were supplemented by agents of the Bureau and the Union Leagues for the Republicans and by activities resembling the later Ku Klux Klan for the Conservatives. Candidates and campaign workers on both sides reflected distinctly their party views. The voting began by military order on the first Tuesday in November and continued until completed, the polls in each county being supervised by three registrars. Two polling places were provided in each precinct, one at which were cast ballots on the convention question and another at which the electors voted for candidates. The order that no registrar, judge or clerk was to become a candidate was ignored in many cases. Ample precaution was provided against disturbances and the election passed in most precincts without trouble. The negroes had voted nearly their full strength, while many whites declined to go to the polls.

On December 5 Ord announced that the vote for a convention had carried. The "Daily Republican" declared the first conflict had been a magnificent triumph, the Republicans having elected sixty of the seventy-five delegates.[4] It also announced that the Republican party would be "a new and regenerating power controlling the destinies of Arkansas." At the same time this Republican organ declared the negroes had been tried and found true.

The commanding general designated January 7, 1868, as the time and Little Rock as the place for the delegates to assemble in convention. When assembled the Carpet-baggers were in control and elected Thomas M. Bowen president. The negroes and Conservatives received slight consideration in the organization of the convention. A Carpet-bag majority, sprinkled with eight negroes and a few scalawags, led the conservative public to dub the assemblage "the bastard collection," "the menag-

3. Staples, 158-62.
4. *Daily Republican,* November 15, 1867.

COURT HOUSE, CONWAY



erie," "the mongrel assemblage," "a compound of villainy." It was a pitiful mockery of republican government. Joseph Brooks, a Carpet-bag preacher, and James Hinds, a Carpet-bag lawyer, and J. M. Grey, a negro, led the Radical forces, while John M. Bradley and J. N. Cypert voiced the protests of the Conservative white property owners of the State. Through General Smith the Radical leaders kept in sympathetic touch with General A. C. Gillem, Ord's successor, at Vicksburg.

Working within limits prescribed by the Reconstruction Acts of Congress the Radical majority moved directly to the framing of a constitution conferring the elective franchise on those qualified to vote at the election of the first Tuesday in November, 1867. The Conservatives, failing to make headway by denying the constitutionality of the Reconstruction Acts, settled down to tactics of obstruction, enlivened by wit, sarcasm and ridicule. Conservative forebodings of impending ruin were met by Radical boasts that the new order would usher in a prosperous and happy era. Both sides realizing that the real contest would come, not in convention, but when the constitution was before the electorate, indulged in such oratorical flourishes as would enable them to create campaign material for the contest over ratification. The organic law was framed in committees controlled by men ignorant of the past history of the State, prejudiced against its social structure, and uninformed on its economic resources. While the committees framed the fundamental law, the public sessions rang with heated debate on finances, the franchise, education, the militia, intermarriage of the races, and appropriations. Stay laws, convention expenses, State printing, and compensation of members were topics of keen interest to the Reconstructors. The Constitution of 1864, the efficacy of the Murphy government, the improvement of levees and rivers, the penitentiary, the cotton tax, and the Freedman's Bureau received abundant consideration of no appreciable consequence. The per diem of members was fixed at sixteen dollars for the president, twelve for the secretary, ten for each assistant secretary, and eight for other officers and members, and all drawing full pay for time spent in travel at the rate of thirty miles a day and twenty cents a mile both ways.

Rejecting a Conservative proposition to levy a poll tax on each registered voter the radical majority voted a property tax of one-fourth of one per cent. to be added to the tax of 1868 and collected by June 1, 1869, to defray convention expenses. This ordinance was followed by one to make delegates' claims payable out of any funds which might come into the treasury subsequent to the passage of the ordinance. Still not satisfied that funds would be available for delegates described as "without money and without friends," Asa Hodges was sent to General Gillem for approval of a proposition to take $75,000 already in the treasury to pay delegates and convention expenses. Gillem authorized Treasurer Page,

appointed by military authority to succeed Cunningham, to advance $50,000. That amount lacked $137,000 meeting the total expenditures of the convention.[5]

The constitution, as submitted to the voters, expanded the bill of rights to affirm the allegiance of every citizen to the Federal government, denied the right of secession, and asserted the right of every citizen to bear arms. The elective franchise was conferred on every male person of twenty-one years who had been born or naturalized in the United States or had legally declared his intention of becoming a citizen thereof, had resided in the State six months next preceding a general election, had not violated his oath of allegiance to the United States, had not been disqualified for voting in the State from which he came, had not violated the rules of civilized warfare during the late war, and was not disqualified by the Fourteenth Amendment or the Reconstruction Acts for registering, voting or holding office. However, all persons accepting the equality of all men before the law and supporting actively the Congressional policy should be deemed qualified to vote. Elective disabilities might be removed by a two-thirds vote of both Houses of the General Assembly and the approval of the Governor. Having met these conditions the voter must take an oath of loyalty and accept the political equality of all men and promise to discontinue any attempt to deprive any person of such equality. The apportionment of representation was grossly to the advantage of those who might control the negro vote and was not to be changed before 1875. The Chief Executive was clothed with powers of appointment which enabled him to control the whole State machinery of administration, and the power of the Legislature to interfere with certain appointive officers clearly limited. All township and precinct offices were to be vacated in thirty days after the new Constitution went into effect. The Governor was commander-in-chief of the militia, which was to consist of all able-bodied registered voters. Only voters might serve on juries and no poll tax might be levied except for school purposes. The State debt was placed under a sinking fund commission, consisting of the Governor, the Secretary of State and the Attorney-General. The General Assembly was required to provide for a university and a comprehensive system of free schools. To amend this fundamental law it required that the proposition receive a majority vote in each House of the General Assembly, be passed by a majority vote of each House in the next succeeding session after having been published three months prior to the date on which the members of that body were to be elected, and ratified by a majority of the electors qualified to vote for members of the Legislature. The crowning iniquity of the convention's work was the schedule, which entrusted the supervision of the election on the Constitution and for State officers to a commission consisting of James L.

5. Staples, 227-30.

Hodge, Joseph Brooks and Thomas M. Bowen, all Carpet-bag Radicals of shady repute. These commissioners were authorized to establish an office at Little Rock, employ all necessary clerks at eight dollars each a day, start the election on March 13, 1868, appoint all election officers, and certificate successful contestants.[6]

Immediately after the convention adjourned both political parties started a vigorous canvass. The lack of party organization and cohesion in 1867 had taught the Conservatives a valuable lesson. While the convention was yet in session Conservative elements perfected an organization to coöperate with the Democrats. These groups described themselves as "the opponents of negro suffrage and domination and the friends of the Constitution and civil liberty, in a combined opposition to the destructive measures of radicalism." Committed to the proposition of a "white man's government in a white man's country," the Democratic State Convention of June 27, 1868, appealed to the people to reject any constitution submitted by the Radicals and authorized its State central committee to do whatever might become necessary to "the triumphant success of the great white man's party."

On January 15, 1868, the Republicans held a State Convention at Little Rock, drawing about three-fourths of its delegates from the membership of the Constitutional Convention. The night before this meeting the Little Rock Republican Club had resolved that the party's best men be nominated for office, but on the morrow the Carpet-baggers captured all of the best places. The State ticket carried Powell Clayton for Governor; J. M. Johnson for Lieutenant-Governor; Lafayette Gregg, John McClure and John T. Elliott were nominated for Associate Justices of the Supreme Court. Joseph Brooks, president of the convention, was authorized to appoint a committee of nine, a quorum of which should fill vacancies on the ticket. The platform adopted committed the party to a faithful execution of the Congressional policy of Reconstruction, internal improvements, economy, free schools, free speech, free press, and the civil and political equality of all men before the law. They also opposed the cotton tax and every vestige of slavery.

The canvass which followed was thorough and bitter. The partisan press bristled with invective. Both parties sent their best orators into the field, Garland, Rose, Hindman, Pike, Watkins, and others for the Democrats, and Hinds, Brooks, Clayton, Roots, and others for the Republicans. The Republicans charged the Democrats with plotting rebellion, violence, intimidation and fraud, while the Democratic spokesmen denounced Republicans as Carpet-baggers, rogues, ignoramuses, and advocates of negro equality. The campaign activities of the Union Leagues and Freedmen's Bureau were matched on the Democratic side by the work of the Ku Klux Klan.

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6. Debates and Proceedings of the Arkansas Constitutional Convention, 1868, *passim*.

On election days two sets of polls were opened. At the military polls and under the supervision of military authority were cast the ballots on ratification, while the voters expressed their choice for State officers at the civil polls under the supervision of the election commission. Both sides called for a fair election, but neither side expected such a thing. Fourteen days before the voting began a board of registrars in each county spent five days in revising the voting lists, adding or erasing names on their own judgment. Contrary to Reconstruction laws, registrars in some cases became candidates for office. Judges and clerks were selected from the State at large. Ample precaution was taken to preserve order at the polling places. A rumor that General Smith had declared that it was to the interest of all registrars that ratification carry increased Conservative apprehensions of fraud. A Democratic demand for challengers at the polls was rejected as an absurd idea by Smith. The voting extended over a period of fifteen days, polls being opened in some places for three days, and in other places they were opened, closed for two weeks, and finally opened again. Democrats intimidated negroes in some precincts and Republicans stuffed the ballot boxes, denied registered white men the privilege of voting, and repeated at will. The polls were not closed in the heavy negro counties until the Conservative strongholds had reported, thereby enabling election officers to aid materially in carrying the election.

On the first of April the commissioners announced that ratification had carried.[7] Twelve days later the Democratic State Central Committee filed with the commanding general a statement of alleged irregularities and appealed to him for an opportunity to prove their contentions. Coming from headquarters, Captain J. E. Tourtelotte investigated the charges, found them substantially true, offered extenuating considerations, and left the matter to Gillem, who referred them to Grant at Washington. Grant referred the matter to the House of Representatives on request, and there it went to the Committee on Reconstruction.[8]

No further action was taken on the fraud charges, but Arkansas was hastened back into the Union over the veto of President Johnson. The haste in readmitting the State suggested that the Radicals were anxious to secure Arkansas' electoral vote for the Presidential election in November. Moreover, the officers-elect were clamoring for their own inauguration. The representatives gathered at Little Rock and organized for business two months before the State was restored to the Union, but Murphy was Governor under the Constitution of 1864 and by the sufffrance of the military authorities and could not fully recognize a body meeting under an organic law not yet recognized by Congress. Clayton kept in close touch with both Murphy and the new Legislature, awaiting his own inauguration.

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7. Debates and Proceedings, 1868, 794.
8. Staples, 264 ff.

CHAPTER XVIII.

A CROSS-SECTION VIEW OF CONGRESSIONAL RECONSTRUCTION AT WORK.

Powell Clayton was inaugurated Governor July 2, 1868, with considerable pomp. In a temperate address he proclaimed the dawn of a new era in Arkansas.[1] Republicans agreed with him, but Conservatives declared that only distaster could come from a Republican administration. Clayton had come to the State with the Union Army, had married Miss McGraw, of Helena, had interested himself in planting, and had kept clear of politics until the Congressional policy of Reconstruction was formulated. Then he threw himself into the support of that policy and secured the nomination for Governor against the best men in the scalawag group. The Legislature, organized several weeks before Clayton's inauguration, was completely under his control. By legislation the appointing power of the executive was increased to such proportions as to make him dictator in the State. To entrench the Radicals in power State offices were created, salaries increased, fees arranged and patronage distributed to care for most of the elements in the combination. To make secure their grip on the State a registration law was passed conferring on the Governor power to control elections. With a general election approaching this law required the Chief Executive before August 1, 1868, to appoint as a board of registration in each county three loyal citizens who had resided therein for six months. As president of each board there was to be a justice of the peace, and the Governor was to create and fill vacancies at pleasure. Registrars were required to take the oath prescribed for State officers, to spend three days in each precinct from sixty to ten days before each general election to register voters, pass on the qualifications of applicants, issue certificates to all registered, and to appoint judges of election.[2] While on duty registrars enjoyed the powers of Circuit Courts to preserve the peace, received six dollars a day in compensation, and Circuit Courts were expressly denied the power to issue writs of mandamus compelling them to add or erase the names of voters. The same registrars acted as boards of review, which might for six days review the lists, and the Governor might order a new registration. An applicant who felt aggrieved at the action of the board might have his complaints certified directly to the Supreme Court.

Within the twenty days between the inauguration ceremonies and the day of adjournment the Legislature turned out some significant leg-

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1. *Senate Journal*, 1868, 126. *Daily Republican*, July 2, 1868.
2. Laws of Arkansas, 1868, 52.

islation. A bill passed to organize the State militia and put it on an active footing. The pardon and amnesty act of the previous session was repealed. A stringent law was enacted forbidding public carriers to discriminate against persons on account of race or color. Acts were passed defining the qualifications of jurors, prescribing the duties of the commissioner of public works and improvements, authorizing additional buildings for the penitentiary, making treasurer's certificates bear interest and receivable for debts due the State, and appropriating for expenses of the State departments and of legislative sessions.

As time passed it became advisable for the Reconstructors to halt their legislative program until they had passed the election of 1868. The Conservatives or Democrats were organizing and bringing pressure to bear on opponents of radicalism to seek registration, and Democratic leaders as a rule exhorted their partisans to qualify for voting. Many conservatives, however, declared it useless to seek registration. Clayton promised a fair registration and a fair election, but conservatives distrusted him; and when other Republican leaders boasted that every man whose name went on the voting list would have to take "that hard oath" and take it in good faith the last ray of hope of a fulfillment of Clayton's promise vanished. As registrars visited precincts distant from the protecting arm of local authority they were liberal enough in placing names on the lists, but when met at the county seats to review their work enough names were erased to guarantee a safe Republican majority. In precincts with black majorities they had no trouble in reducing the Conservatives to a minority.

While the voters were being registered the Congressional canvass was under way. The Republican candidates for election to the House of Representatives were Logan H. Roots, First District; A. A. C. Rogers, Second District, and Thomas Boles, Third District, all clearly committed to Radical Reconstruction. The Conservatives or Democrats nominated C. B. Cameron against Roots, J. T. Elliott against Rogers, and L. B. Nash against Boles. Early in the canvass the Democrats felt they had a fair chance to elect their candidates, but it soon became clear that their opponents would not only carry the Congressional election, but elect Republican Presidential Electors as well. Worse still, evidence appeared that such a triumph would be followed by a declaration of martial law.[3]

Immediately after adjournment of the Legislature in July members of that body hurried home to push the organization of the militia under the new law, and within three months that work was thoroughly done. On the sixteenth day of October Clayton set aside registration in eleven counties, ten of which had given majorities against ratification of the Constitution. That one stroke eliminated a Democratic majority of

3. Staples: *Reconstruction in Arkansas,* 288 ff.

2,822. Two days later he added Randolph County to his list. This course was endorsed by the commander of the Federal forces in the State, and the secretary of the Union Republican Congressional Committee assured the Governor that United States troops would be at his command if he established martial law. General J. M. Schofield was reported as in sympathy with this policy, and the Radical press stirred the elemental passions of men by sedulously disseminating charges of outrages, intimidations and murders against Union people by the Ku Klux Klan. The Union Leaguers and Freedmen's Bureau agents supplied the rumors on which these stories were based. The Democrats pronounced most of such charges as campaign lies for Nothern consumption, and disclaimed responsibility in cases where such acts had been committed. But the seizure of the steamer "Hesper" bearing military stores to Clayton's militia and the bitter denunciations of his policies in Democratic circles convinced the Governor that his government was in danger.

Soon Clayton perfected his plans. The State was districted and large sections placed under martial law. Militia forces, composed largely of negroes excited by the incendiary harangues of extreme Radicals, marched and countermarched through sections of the State, spreading terror among the civilian population.[4] At the same time the Governor sent detective agents throughout the State to secure evidence against the Ku Klux. Opposition to martial law soon reached alarming proportions and provoked severe criticism in the ranks of even the Republican party.

When the Legislature reassembled November 17, 1868, its leaders declared that the recent election was an endorsement of radical policies and proceeded to complete their program. The Governor now congratulated the legislators on having escaped the perils, tragedies and assassinations which had recently surrounded them, and complimented them on the results of the great contest in which they had made constitutional liberty and justice secure against disorder, repudiation and misrule. Declaring that a deep-laid conspiracy had been attempted through a program of assassinations, robberies, threats and intimidations, he submitted a "dark catalogue of crimes" to prove his contention. This was submitted to justify his declaration of martial law. He concluded his message with the recommendation of measures considered essential to the completion of political reconstruction.

In response to the Governor's message and in dutiful accord with his spirit the lawmakers investigated rumors of outrageous conduct of the militia while in service, and then legalized the martial law proclamation and all acts done under its authority. Republican protest against the policy was silenced when the State printer was threatened with removal

4. Clayton: *Aftermath of the Civil War*, 66.

for opposing the measures of the administration. Money was appropriated to defray the expenses incurred by the armed forces while acting under the Governor's call, and the conservative property owners continued their protests. Such were the reports of property seized for militia supplies that the quartermaster announced that during the last fourteen days of January, 1869, all seized property would be restored at Little Rock on proof of ownership, but as most of the claimants resided more than fifty miles from the Capital City this gesture of return of property only aggravated the situation. Finally a law was passed in 1871 to empower a commissioner to adjust such claims. S. W. Mallory was appointed commissioner and administered the law by distributing $120,406.29 among the clients of himself, half a dozen lawyers, Joe Demby, J. J. Gibbons and Keyes Danforth. The cost of martial law and the militia campaign reached a total of $330,676.43. To dignify further the militia service a law was passed to legalize the votes cast by soldiers in the field.[5]

The most significant measure of the session was the law authorizing the refunding of the State debt. That piece of legislation opened the way for the worst large scale corruption and stealing the Radicals did.

The social and economic reconstruction of the State could not be made by legislation alone. The vast majority of the whites were hostile to every policy and administrative act of the Radicals and clamored for home rule and conservative government, declaring that Arkansas was being ruined by a small group of Carpet-baggers sustained only by a horde of ignorant negroes and a few renegade scalawags. Those in power accepted the entire Congressional policy as interpreted by its most radical friends and ridiculed without mercy the institutions and spirit of the pre-war period. Led by men of dull vision, and discordant among themselves, the party of Radicalism began drifting towards failure, but aided by the disfranchisement of the Democrats and the hearty support of the National Republican party, the jarring elements held together long enough to rivet the new order on the State.

The spirit and methods of business were little different from those prior to the war. In many cases Northern men joined Southern men in business ventures, but the more violent partisan Republicans declared such affiliations dangerous and disloyal on the part of old Union men. While enemies in politics, Democrats and Republicans mixed freely in social life. The ex-Confederates and their friends paid the taxes, and the Carpet-baggers and negroes ran the State.

The constructive program undertaken by the Radicals proved hopelessly disappointing. Their system of public education was largely a piece of administrative machinery affording patronage through which the party was served and the funds squandered. The policy of encouraging

5. Staples, 301-05.

immigration, though expensive, proved of value only to the salaried officers connected with the bureau, the real estate promoters and the administration ring. The attempt to secure certain civil rights for the negroes resulted in no permanent good to the Freedmen. Under the pretense of encouraging internal improvements the taxpayers were robbed, party henchmen cared for, and an enormous debt piled up, all without material returns. To this must be added three million dollars authorized and squandered in the levee business, without appreciably increasing the mileage or condition of the levees already existing. Under laws authorizing the refunding of the State debt and loaning the credit of the State in aid of railroad construction the regenerators incurred a funded debt of more than ten million dollars, a floating debt of nearly two millions, an annual expenditure of one and a quarter millions, with no credits, no appreciable railroad mileage and no public improvements to show for it. Alien, wasteful, corrupt, vindictive, the reconstructors failed utterly to bring about the peace and order essential to a revival of contentment and prosperity in the social order.

Composed of discordant elements and dominated by selfish and tactless leaders the party of Reconstruction was torn by factional strife from its earliest beginnings in Arkansas. Failure to distribute the spoils equitably started the trouble. Before the party organization was perfected the old Unionists became dissatisfied with the way the public printing was awarded. At the first Republican State Nominating Convention the same element was further disaffected by the nomination of Clayton over J. M. Johnson for Governor. At the same time a small group of Carpet-baggers and negroes was dissatisfied because the Rev. Joseph Brooks did not receive the nomination he desired. But for a time fear that their opponents might block the Reconstruction program held the new party together until its majority resorted to drastic measures to force the Legislature to endorse Clayton's martial law policy. At that point a group of scalawags, led by Lieutenant-Governor Johnson, boldly denounced the majority as a group of Carpet-baggers interested solely in the exploitation of the State.[6]

April 8, 1869, a call was issued by Johnson and seventeen others for a meeting to organize the opposition to the policies of the administration. In response a group of Johnson's friends launched "The Liberal" as their party organ. To check the rising tide of resentment the Governor's friends tried to get Johnson out of the way by securing his appointment to a Federal office, but the plan miscarried and plotting continued. During the summer of 1869 the Governor, without notice to the Lieutenant-Governor, left the State on business connected with the refunding of the State debt. This official ill-treatment offended Johnson and he and his friends planned to seize the executive offices. Receiving intimations as

6. *Gazette*, March 19, 1869.

to what was brewing Clayton hastened to Little Rock and prevented Johnson from occupying the Governor's chair. The Johnson faction continued to criticize bitterly Clayton's policies, and those in power instituted *quo warranto* proceedings to test Johnson's title to the office of Lieutenant-Governor. But the friends of Johnson increased their complaints and broadened their attack on the administration.

October 14, 1869, the Liberal Republican party was formally launched and a direct appeal was made to the Democrats to join them in an attempt to oust the Radicals. Within a few hours of the adjournment of this meeting of Liberals, Clayton declared that in the light of the approaching election of 1870 it was time for greater liberality towards the disfranchised.[7] For a year the struggle went on, Clayton leading the straight Republicans and Joseph Brooks leading a combination of Liberals and Democrats. Representatives in Congress and members of the State Legislature were to be elected, but it soon became clear that Clayton would be a candidate for the United States Senate against Alexander McDonald and interest shifted to that issue. Clayton's friends controlled fifty-two of the local conventions and sought to heal the party breach, but the Liberals captured the Republican State Central Committee and widened the party rift. Soon the original issue of modifying the suffrage laws was lost sight of in a campaign of bitter personalities, in which the record and leaders of the Radicals were mercilessly exposed by their opponents.

Letting the campaigning go, Clayton's friends controlled both the registration of voters and the election. When they had completed the voting lists it was claimed that of the 102,359 males of voting age 71,885 had registered. This was an increase of 5,569 over that of 1867. It was an easy matter to carry the election. When it was not convenient to reject enough men at the registration or the polls to insure a majority, the work was accomplished by stuffing the ballot boxes. The Liberals made a fair showing, capturing two of the three seats in Congress and eight Senators and twenty-nine Representatives in the State Legislature. But Clayton still controlled the State.

When the General Assembly met on January 2, 1871, the fight was renewed. January 10 Clayton was elected to the Senate, but declined to go until Johnson should be eliminated. Every contested seat was awarded to the claimants who favored Clayton for the United States Senate. Impeachment proceedings were started against J. M. Johnson on the grounds that he had administered the oath to Brooks as Senator, contrary to law, but the moderate Republicans joined the Democrats in blocking the movement. The next move was to institute *quo warranto* proceedings against Johnson, and a Supreme Court, remodeled for the purpose, made the writ returnable in twenty days, but Johnson had no

7. Clayton: *Aftermath of the Civil War,* 312; Van Buren Press, October 4, 1870.

trouble proving his act legal. By the time this scheme failed the House of Representatives had changed and voted articles of impeachment against Clayton on the grounds of conspiracy to defraud Johnson, unlawful removal of officers, corruption of electors, accepting money in the refunding of the State debt, and other high crimes and misdemeanors. Clayton's friends blocked the trial by refusing to attend the Senate sessions. And by that time the public had lost interest in the factional contest between two groups of political parasites.

When it was demonstrated that neither side could crush its enemies, the Secretary of State resigned, Johnson succeeded him, O. A. Hadley was elected President of the Senate, and in eight days Clayton departed for Washington. The majority Republicans had sent their chief to the Senate, but they had ignored their campaign promises and had driven the Republican factions farther apart. Few acts of moment were enacted. Three counties were created, provision was made for subscription bids for the location of the Industrial University, the time limit in which railroads might qualify for aid bonds was extended, the election law was amended, and the franchise restored to about two hundred persons. Minor acts provided for issuing bonds for the State debt, digesting the laws of the State, collecting the school funds, building and repairing levees, and issuing interest-bearing certificates on bank note paper. Rejecting a proposition to remove the disabilities of nine hundred citizens, they submitted a constitutional amendment which would relieve all such disabilities. The entire session was marked by a bitter fight between the "Minstrels," or regulars, and the "Brindletails," or bolters, with the Democrats supporting the latter.

Clayton continued to dictate to his party, while Hadley tried to hold it together against the combined assaults of Liberal Republicans and Democrats, who were building up a combination to carry the election of 1872. The new governor's path was thorny. Social conditions were worse now than at any period during Reconstruction except perhaps in 1868. Serious disturbances broke out in Chicot County where the negroes, under the influence of a corrupt leader of their own race, established a reign of terror. In Pope County the cumulating hatreds of years culminated in irregular warfare. The troubles in Chicot ran their course, while an inspection officer of the State militia reported the situation as satisfactory and a partisan circuit judge prevented an investigation by summarily dismissing the matter. The Governor did better in Pope, where practically all involved were whites. There he managed to check the troubles in a regular fashion and restore a measure of peace.

CHAPTER XIX.

DOWNFALL OF REPUBLICAN RULE.

It was in the election of 1872 that the Republicans really completed their own undoing. The campaign for that contest began back in 1871 when Joseph Brooks sounded the Liberal keynote by demanding "universal suffrage, universal amnesty and honest men for office." Four months later the Liberal leaders made an unsuccessful attempt to convict Clayton of illegally certifying the election of an officer, and the Senator was charged with ousting all Republican officers in the State who had not supported him. He directed his attack in such a way as to leave the impression that President Grant was supporting him, and immediately the friends of reform increased. As the contest advanced the elements of success were about equally divided, the Minstrels controlling the machinery of registration and election, and the Brindletails a good majority of the rank and file of the genuine Republicans in the State. The Democrats, holding the balance of power and in a temper to bargain, took the initiative and held a convention in Little Rock on June 19. The Liberals met about the same time. The Minstrels, having called a convention to meet a month prior to this date, split in their central committees and another group joined the Anti-Clayton forces.

After a number of conferences and conventions the contest settled down between the regular Republicans supporting Elisha Baxter on a platform endorsing the National administration of Grant and the State administration of Hadley, and the Liberal-Democratic combination in support of Brooks for Governor on a platform endorsing the National Liberal movement and genuine reform in the State. The closing days of the canvass were charged with excitement. Brooks, a devastating stump speaker and a tireless worker, knew the vulnerable spots in the Republican record as no other man and exposed its iniquities mercilessly. Baxter devoted his efforts to convincing Democrats and liberal-minded Republicans that, if elected, he would give the State an honest and economical government. Democrats were in a sad plight. They respected Baxter, but hated his crowd; they had no good reason for trusting Brooks, but they loved his promises. And since Clayton supported Baxter, Democrats espoused the other side.

July 23 Hadley ordered a new registration of the voters. The election in November was notorious for irregularities, but the certified returns and the official count by the Legislature gave Baxter 41,834 votes to 38,886 for Brooks. Among the other successful candidates were: V. V. Smith for Lieutenant-Governor; J. M. Johnson for Secretary of

State; T. D. W. Yonley for Attorney-General; J. C. Corbin, colored, superintendent of public instruction. In the Congressional election Asa Hodges defeated Lucien C. Gause, O. P. Snyder defeated M. L. Bell, and W. W. Wilshire defeated Thomas M. Gunter. All three defeated candidates contested the election, but Gunter alone won out. William Haynes was elected Representative-at-Large. It was only a partial success for the Clayton Republicans.

As soon as the results were announced Brooks and his friends declared that he had been defrauded and would oust Baxter, if inaugurated. A careful study of the facts revealed leads to the conclusion that they were justified in their determination. As the days for Baxter's inauguration approached the Brooks men called a meeting in Little Rock on January 4, 1873, with a view to placing their champion in the Governor's chair. To block that movement friends of Baxter labored diligently to convince the people that the Governor-elect would fulfill his pledge of good government. A hot conflict seemed inevitable, and the Democratic claimants to seats in the Legislature were willing to support the side which would offer the best terms. When the Minstrels showed a willingness to seat the Democrats and assure them of good government, Brooks lost most of his Democratic friends and the Brindletail revolution petered out.

Governor Hadley had D. P. Upham to assemble at the capital a force of militia to prevent serious disturbances and the nineteenth session of the Legislature organized in peace January 6, 1873, with V. V. Smith President of the Senate and C. W. Tankersley Speaker of the House. The Republicans had a majority in both houses, but the Democrats and Liberals combined proved an embarrassing opposition. Baxter was inaugurated on the first day of the session and delivered an address in complete harmony with his previous declarations. The Brindletails raged, denounced the legislators, who had supported Baxter, and asserted their readiness to prove to a committee of Congress that Brooks had been elected by a majority of 1,598 votes in the November election.

With the danger of revolution removed, the new Governor and the Legislature moved immediately to win the Democrats. The constitutional amendment proposed in 1871 was submitted to the electorate and the election set for March 3, 1873. On that date the amendment carried by 21,504 votes in a total of 28,894 cast. This result and the evident intention of Baxter to fulfill his pledges led Democrats to propose a convention to embody in the organic laws the whole body of reforms at issue in the contest of the previous year. But the regular Republicans were able to defeat the project.

The legislative output of the session, except for the submission of the amendment, was not important. A civil rights law was enacted, eight counties created, school authorities were required to establish schools for negroes, and counties, cities and towns authorized to issue bonds to

aid railroad construction. Stephen W. Dorsey, a Carpet-bagger of low repute, was elected to succeed B. F. Rice in the United States Senate on March 4, 1873. So long as there was danger of an attempt to oust Baxter the majority had no difficulties, but when that danger passed a group of radical legislators and boodlers on the outside proposed measures so manifestly corrupt that the Governor openly opposed them. From that day the Reconstructors became desperate.

Soon after the Legislature adjourned the Governor's policy began to unfold. It revealed the purposes of an honest man to redeem his pledges of justice and economical government to his own people. His appointments were generally non-partisan, registration officers were selected from both parties, Democratic as well as Republican papers were awarded legal advertising, and when it became necessary to organize the militia Democrats were chosen to direct the work. The unfolding of this policy, together with his opposition to their legislative schemes, led the radical Carpet-baggers to repudiate Baxter and espouse the claims of Brooks to the office of Governor. Then followed a series of political moves which revealed the low moral tone and political rottenness of the Reconstruction processes.

Having made up his mind to supplant Baxter, Brooks endeavored to enlist the Federal courts in his behalf, but the district judge decided his court lacked jurisdiction in the case. June 2, Yonley, the State Attorney-General, began *quo warranto* proceedings against the Governor in the State Supreme Court, and that court decided it had no jurisdiction. Fourteen days later there was filed a complaint in the Pulaski Circuit Court alleging usurpation of office by Elisha Baxter. To that complaint Baxter demurred, and the matter rested for ten months. During those months Democratic supporters shifted rapidly to the Governor, and Dorsey and Clayton from Washington assured him of their support. But at the same time the original Baxter supporters transferred their allegiance to Brooks, the drift being accelerated by a turn in the legislative personnel. Soon after adjournment thirty-three legislators resigned to accept appointive offices, and their successors were chosen at a special election on November 8, 1873. Preparatory to voting at that time a registration of the voters was made by officials recently appointed by Baxter. The Radicals in desperate straits to save themselves, secured an opinion from Yonley that the election should be conducted by officials designated by the registrars of 1872, but his opinion was ignored. With that, the Republicans, claiming Baxter had assured them that no special session of the Legislature would be called, refused to nominate candidates, and the Democrats carried the election. By the close of the year Brooks was apparently deserted, but he had not lost hope.

On April 15, 1874, in the Circuit Court, attorneys for Brooks called up the case of Baxter's demurer. Judge Whytock heard the case without

notice to the defendant, overruled the demurer and gave judgment on the merits of the case that Brooks was entitled to the office of Governor and pecuniary damages to the amounts of $2,218. The judgment carried an order for Baxter's removal. Immediately a few of Brook's supporters proceeded to the executive offices, ejected Baxter and had Chief Justice John McClure administer the oath of office to Brooks. Baxter, unable to resist, retired to the Anthony House, a nearby hotel, and established headquarters. The Brooks-Baxter War had begun.

Brooks, in possession of the capitol and prepared to plunge the State into civil war, placed at the head of his militia forces R. F. Catterson, the mention of whose name in connection with the militia conjured up fears of murder, arson and rape. Grant was asked to deliver to Brooks the State arms deposited in the United States Arsenal at Little Rock and Catterson seized and fortified the capitol grounds. With the exception of J. M. Johnson, all the State officers elected on the ticket with Baxter now deserted him, Clayton and Dorsey telegraphed Brooks that he was fully endorsed by President Grant, all the State's Representatives in Congress except one joined the same band, and three members of the Supreme Court telegraphed the President that they were for the man who held the capitol. As soon as he established headquarters Baxter telegraphed his own views to Grant and requested support from the commander of the arsenal at Little Rock.

Both claimants issued appeals to the people. Brooks restated his claims, warned the public that an attempt to restore Baxter would lead to bloodshed, and advised "one and all" to remain at home until notified that their services were needed. Baxter declared martial law in Pulaski County, organized the militia, and called on the people to help him repossess his office. Democrats rallied to Baxter and Republicans to Brooks. On April 16 the Democratic members of the Little Rock bar joined forty-four other citizens in a call for men to hurry to Baxter's aid and a few days later the Democratic Conservative Central Committee issued a similar call.

Friends of this revolution held that the Circuit Court's decision was proper and final, that Brooks had been defrauded in the election of 1872, and that Whytock's course was perfectly regular. Their opponents held that the Legislature was the only tribunal authorized by law to decide who had been elected in 1872, that it had declared Baxter elected, that he had been duly inaugurated and that all of his official acts had been perfectly regular. President Grant declined to interfere, but advised that the determination be left to the State courts. Baxter rejected the proposition and both sides continued preparations for war. A request from the mayor of Little Rock that the United States afford protection to the city was refused, but United States troops were stationed between the contending forces to prevent bloodshed. The Postmaster-General ordered

local postal authorities to deliver to each claimant mail addressed to him personally or by title and to hold other communications for further orders. Later United States troops took charge of the telegraph office.

For approximately a month the State was on the verge of civil war. Partisans of both sides from every section of the State poured into the armed camps at the capital. Arms arrived slowly and agents rushed off to procure implements of war. The commanding officers on both sides were ex-Confederates, General R. C. Newton for Baxter, General J. F. Fagan for Brooks. Baxter's forces grew faster than those of Brooks, and representing, as they did for the most part, the better elements of society, enjoyed a growing advantage over their enemies. No serious encounters occurred at Little Rock, but business was practically suspended there. Serious clashes occurred at various places, but only two skirmishes resulted in loss of life. At New Gascony, on April 30, Colonel H. King White with a squad of Baxter men intercepted and routed Colonel J. M. Murphy with a company of negroes on their way to assist Brooks. Seven men were killed and about thirty wounded. On May 8, at Palarm, the Brooksites from ambush put to flight a band of Baxter's supporters who had stationed themselves on the Arkansas River at that point to intercept a boat load of arms in transit from the Industrial University to Brooks' camp. The war was drawing to a close.

When it became evident that the United States troops intended preventing a settlement of the trouble by an appeal to arms, Baxter telegraphed Grant that he intended calling a special session of the Legislature to decide who was Governor and asked that protection be assured members of that body. Grant replied on April 22 endorsing any peaceable adjustment through the Legislature, in the courts, or otherwise. Baxter then called the Legislature to meet in Little Rock on May 11 next. Brooks realized that his claims rested solely on the decision of Whytock's court and acting on the suggestion of the United States Attorney-General that the matter be settled in the courts, turned to the State Supreme Court. On the application of Brooks a warrant for $1,000 was drawn on Treasurer Page, payment of which was refused. The court then granted a mandamus compelling payment of the warrant. Page answered in defence that Brooks was not Governor, and Brooks demurred. The court, now under the seductive powers of Chief Justice John ("Poker Jack") McClure, overruled the demurer and declared Whytock's decision awarding the Gubernatorial office to Brooks regular. For three weeks private citizens and attorneys had been in Washington pressing the claims of their respective champions. At first the authorities at the National Capital insisted that the troubles be left to the courts, but Baxter's friends resisted that proposition so strenuously on constitutional grounds that a compromise was reached.

On May 9, from Washington, Attorney-General Williams suggested



OFFICERS' QUARTERS, FORT LOGAN H. ROOTS, LITTLE ROCK

that it had been agreed by supporters of each side that Brooks and Baxter issue separate calls for the Legislature to meet on the fourth Monday in May to pass on Brook's claims; that neither side interfere with that meeting; that all troops except a bodyguard for each claimant be sent home; and that President Grant decide who should exercise the functions of Governor pending the outcome. Baxter rejected the proposition outright, and Brooks accepted it under protest that the courts alone could decide the question on the principles laid down in the case of Brooks *vs.* Page.

While attempts at adjustment were in progress members of the Legislature arrived on Baxter's call to the special session. When the day for assembling arrived Baxter revoked martial law so far as it could affect the Legislature. On the same day Grant suggested that an adjournment be had for ten days to enable Brooks to call in those legislators who had not responded to Baxter's call and that all armed forces be disbanded. Baxter agreed to adjournment from day to day, as was the constitutional right of the Legislature, and offered to disband his forces in proportion as Brooks disbanded his men. He then demanded that the public buildings of the State be turned over to the Secretary of State, and notified his friends that he had no intention of agreeing to any proposition from his enemies. Then Grant directed Attorney-General Williams to ask Brooks to accept Baxter's proposition, and Clayton telegraphed Brooks to yield but not to relax his efforts until Baxter had accepted the President's plan. However, Brooks refused to follow the President's suggestion or to disband his forces until the President required it, or the dispute was settled. He went further and charged that President Grant, by permitting the Legislature to participate in deciding the question, was encouraging the slaughter of colored men and a great loss of property. From that stage Brooks lost ground rapidly.

May 13 the Legislature organized and called on President Grant to place them in possession of all public property and the "State House Square." Forty-eight hours later the President recognized Baxter as Governor and ordered all those in armed opposition to his authority to disband. Immediately the commanding officers of the two forces agreed on terms of transporting their soldiers to their homes, and Brooks Republicans began leaving Little Rock. The State officers who had supported Brooks soon resigned, Treasurer Page leaving the affairs of his office so involved with the banking house of Stoddard Brothers that their failure thereafter cost the State several thousand dollars. The Legislature refused Brooks' request that the gubernatorial vote of 1872 be recanvassed and May 18 passed a law calling a convention to revise the constitution.

The law provided for an election of June 30, 1874, to decide whether a

convention should be held and for the election of delegates thereto in case the proposition carried. It fixed July 14 for the assembling of the convention, apportioned representation, and created a State board of three supervisors who were to appoint local officers to supervise the election. Before adjourning an issue of $200,000 ten per cent. ten-year bonds was authorized to defray the expenses of the militia called out by Baxter.

May 22 Baxter proclaimed the election and designated June 4 as a day of thanksgiving. Democratic spokesman announced there would be no proscription of the followers of Brooks, and after June 1 when martial law was greatly modified the warriors went home and peace smiled again on the land. And then the Democrats, appropriating the title Democratic-Conservatives, made a thorough canvass for the convention and carried the election by a majority of 71,712 in a total of 81,259 votes cast, electing seventy of the ninety-one delegates. This result was attributed by Republicans to Democratic fraud, and by Democrats it was explained by the fact that the negroes in large numbers had voted with the Democrats for honest government.

The constitutional convention organized on July 14 with Grandison D. Royston president and Thomas W. Newton secretary. A majority of the convention were men of ability, whose presence there assured the people the work would be thorough and rapid. There were only four negro delegates, and the Republican minority was controlled by the scalawag element. There was a feeling abroad that the work at hand was the undoing of Republican rule so far as that could be accomplished in the organic law. The proceedings moved along with remarkable harmony. They suspended the registration law and centered their attention on regulations touching the elective franchise, elections, retrenchment, taxation, economy, martial law, executive patronage, official tenure, and the public debt. As submitted to the electorate, the constitution provided for the popular election of all State officers, prohibited any form of registration as a prerequisite for voting, reduced the number of officers, limited the tax levy to two per cent. of the assessed valuation and restricted the power of the State to contract debts. On submitting their work to the voters a special committee enumerated the features which distinguished it from the constitution of 1868. The vote on ratification was set for October 13, and A. H. Garland, Gordon Peay and Dudley E. Jones were appointed to supervise the election and declare the results.

The Democrats, confident of triumph, held a nominating convention on September 8 to select candidates for State offices. When Governor Baxter declined the nomination for Governor, Augustus H. Garland was named for that office. He resigned his post as election supervisor and Judge U. M. Rose succeeded him. On the ticket with Garland were Wil-

liam R. Miller for Auditor, Thomas J. Churchill for Treasurer, Simon P. Hughes for Attorney-General, J. N. Smithee for Commissioner of State Lands, E. H. English for Chief Justice and David Walker and W. M. Harrison for Associate Justices.

The Republicans met in convention at Little Rock on September 15, with S. W. Dorsey chairman. Clayton, in the principal address of the meeting, declared that every act under the authority of Baxter was illegal, that the Ku Klux were again actively at work, and that his party would submit their cause in Arkansas to a loyal Congress. Declining to nominate candidates for States offices, they elected forty-nine delegates to the proposed Chattanooga Convention of Southern Republicans, voted thanks to the Poland Committee on its visit to the State, and expressed abiding confidence that Congress would set aside every act performed under Baxter's rule. From the convention they turned to spread throughout the State and the Nation charges that the Democrats, through the White Leagues, were terrorizing negroes and northern-born Republicans.

On October 13 the constitution was ratified by a majority of 53,890 in a total vote of 103,500, and the Democratic candidates made a clean sweep, Garland receiving 74,453 votes. The Commissioners of Election proclaimed the results of the election and promulgated the constitution on October 30. Leading Republicans continued to deny the validity of the constitution and J. M. Johnson announced that no commissions would be issued to officers claiming election on October 13, but the Legislature convened a week later and Garland was inaugurated on November 12. But Arkansas was not yet free.

As soon as Garland occupied the Governor's office Volney V. Smith, Lieutenant-Governor under Baxter, planned to seize the chief executive office for himself. It was a desperate game and reflected the low intellectual quality and political standards of the frayed out reconstructors. Affirming that Baxter had vacated the office illegally and that Garland's occupancy was equally illegal, Smith avowed his own intention to assume that office. Yonley supplied an opinion supporting Smith's contention, and the claimant hastened to Washington to press his case before the Attorney-General of the United States. Garland offered a reward for his apprehension and arrest, and the new gubernatorial aspirant soon dropped from public notice. It was generally believed that the slight attention paid Smith's project was due to the conviction of Clayton and other Republicans at Washington that their best chance to retain control of the State lay with the Poland Committee, appointed May 27, 1874, to investigate affairs in Arkansas.

A part of the Poland Committee visited the State, made some show of investigation, returned to Washington unagreed among themselves, and on February 6, 1875, made a majority report through Poland and a minority report through Ward. The majority report afforded no grounds

for Congressional interference in Arkansas, but two days after it was submitted Grant sent a special message to Congress suggesting that the evidence in the case supported Brooks' claims to the office of Governor and asking that the Chief Executive be relieved of acting in the matter. This thrust and the activities of Arkansas Republicans at Washington very nearly restored the Carpet-baggers to power. But after almost a month Poland called up the majority report of his committee and secured its adoption. That ended Reconstruction in Arkansas, and the Reconstruction party became an impotent opposition completly dominated by Clayton. The most tempestous era in the State's history had ended.

CHAPTER XX.

CONSERVATIVE DEMOCRATIC RULE

The situation confronting the people of Arkansas when restored to home-rule was depressing. The State's debt was appalling, its credit impaired, its properties neglected, and its current revenues exhausted. Taxes were high and business had been demoralized for almost a year. The partisan rancor of the immediate past did not easily pass away; and citizens of every type, though avowing a determination to bury the past in a generous sympathy amongst all political elements, turned their thoughts to securing the commonwealth against a recurrence of radicalism. The Democratic party with its old principles and its old leadership appeared to be the only agency to that end. The Republican party, disrupted and totally discredited with the better elements of society and dominated by Powell Clayton, could not inspire popular confidence enough to make it a helpful opposition party. In fact, from that period the State entered upon an indefinite experience of one party rule.

Throughout the danger of Federal interference the State Legislature was in session, having met and organized November 10, 1874, with Bradley Bunch President of the Senate and A. A. Pennington Speaker of the House. March 5, 1875, it adjourned to meet on the first day of November following. From that date it continued forty days. The work of the two sessions followed a single legislative program to which Governor Garland was definitely committed. A comfortable majority in each house heartily supported the Governor, voting unqualified endorsement of his policy to crush Volney V. Smith, increasing the amount of reward which might be offered in certain cases, reimbursing William E. Woodruff for the money advanced to purchase arms for Baxter's men in 1874, and authorizing an issue of bonds to pay the Baxter militia of the later period. After a searching review of the financial history of the State under Republican rule as an exhibit of the wanton extravagance of the period, steps were taken to adjust the entire public indebtedness of the State.

When Garland entered upon his gubernatorial duties the State treasury was empty, and current obligations had to be met by borrowing money on promissory notes. It was estimated that Reconstruction had increased the debt by more than ten million dollars. In a statement issued by the Legislature it was claimed that, while the expenses of State government should not have exceeded an annual outlay of $300,000, the average for the last six years had been more than a million dollars. In the same exhibit it was shown that the total debt incurred during the period was in excess of thirteen and one-half millions and that the total

cost of the experiment of Congressional Reconstruction had reached the impressive sum of $17,942,111. Having provided for the immediate needs of the treasury, the Legislature authorized an issue of $2,500,000 six per cent. thirty-year bonds to place the credit of the State on a better basis. In part these bonds retired auditor's warrants and treasurer's certificates, and their own payment was provided for by a sinking fund.

To remove one of the most vexing reminders of the past eight years, a general election law was enacted eliminating registration as a prerequisite for voting. For the encouragement of industry exemption from taxation for a period of seven years was provided for units of capital amounting to $2,000 invested in the manufacture of cotton and woolen goods, farm implements, cotton seed-oil, and leather goods. Of minor importance were acts to organize Miller County and to change the name of Sarber County to Logan. The State was redistricted for Congressional representation, and provision was made for support of free common schools. The hope of bringing in a new era was reflected in the activities of promoters and speculators as well as in the policies and measures of statesmen.

It was in 1875 that J. M. Loughborough, land commissioner of the Iron Mountain and Southern Railroad Company, and T. B. Mills, a Little Rock real estate man, promoted the Northwestern Editorial Excursion through the State. Mills, the head of T. B. Mills and Company, began the publication of "The Spirit of Arkansas," a rather pretentious paper devoted entirely to the advertisements of the resources of the State. He immediately conceived the idea of a visit from an editor, reporter or other representative of each of the important newspapers in the northwestern states. Having secured the coöperation of the railroads, he and his associates issued invitations for guests to meet in St. Louis on September 28, 1875. At the appointed time seventy-six representatives of papers in twelve states began the trip to Little Rock. When they reached the capitol city four important stops had been made, and the visitors had shared with local citizens at each place a rich feast of booster oratory. At Little Rock the excursionists were received by forty-one prominent business and professional men, Democrats and Republicans, who spent a day dispensing genuine hospitality. In the afternoon the visitors were driven to nearby plantations to see the processes of cotton-picking, and at nine o'clock that evening "the largest and grandest" banquet ever given in the State was served at Concordia Hall, presided over by Colonel Loughborough. No fewer than thirteen eminent speakers contributed to the creation of a new vision and a new spirit in the new order of things. From Little Rock the several railroads had groups of visitors for excursions into different sections of the State, where local citizens buried all partisan animosities in a patriotic effort to present

Arkansas as a peaceful and prosperous commonwealth abounding in opportunities for the homeseeker. On returning home each guest published in his paper his impressions of Arkansas, and these Mills collected and printed in a four hundred page book entitled "The New Arkansas Traveler." Copies of the book were distributed throughout the country. Giving to the world a wholesome, if over hopeful, story of the resources, spirit and outlook for the State, the great excursion was an historic event of the first magnitude.[1]

Garland's administration of affairs moved directly and successfully to the encouragement of peace, industry and economy. His public record through the war and Reconstruction gave him an enviable standing with his fellow-citizens at home and public men throughout the nation. His personal charm and sound judgment of men in public life enabled him to remove much of the bitterness engendered by carpet-bag and negro rule. He labored earnestly and diplomatically to win the scalawags and negroes from support of the carpet-bag leaders who remained to control the Republican organization in the State. Economy, retrenchment and reform in the public service were constantly emphasized in his public utterances and in his official policies.

From the day he was nominated for Governor it was clear that Garland was the best man with which the Democrats might defeat Powell Clayton for the United States Senate. Clayton as United States Senator from Arkansas was about the greatest perversion of the principle of representation in the history of the country, and his defeat was a primary object of the restored Democracy. Consequently Garland was not a candidate to succeed himself, but was agreed on by the ring masters of his party to take Clayton's seat in the Senate, while a man of equally conservative mold should be Governor.

The election of State officers was set for the first Monday in September, 1876, and the politicians began early a hot contest for the gubernatorial nomination. The apparently hopeful outlook for the National Democratic party was reflected in the spirit and temper of leaders in that party in Arkansas. The proposition to repudiate a part of the State debt constituted the main issue before the public, and on that question sentiment was about equally divided. "The Southern Standard" led the repudiationists on the proposition that the part of the debt honestly incurred should be paid and that the remainder be repudiated as the best way to restore the State's credit. Supported enthusiastically by editors throughout the State, it demanded that William R. Miller, Thomas Fletcher, Grandison D. Royston, and all other candidates for the Democratic nomination for Governor repudiate the "Clayton bonds."[2] With equal zeal the "Gazette" tried to repress the issue.

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1. *The New Arkansas Traveler,* by T. B. Mills and Company, Little Rock, *passim.*
2. *Southern Standard,* June 3, 1876.

The Democratic State Convention met on June 14 in the Grand Opera House at Little Rock, with James H. Berry chairman. Every county of the State except one was represented and the enthusiasm of the delegates was high. In the contest for the gubernatorial nomination William R. Miller, accused of being the choice of the "State House ring,"[3] opposed the combined influence of all other candidates. After a hard fight the two-thirds rule was defeated, and the filibustering checked until Miller received the nomination. On the ticket with him were named B. B. Beavers for Secretary of State, John Crawford for Auditor, Thomas J. Churchill for Treasurer, W. F. Henderson for Attorney-General, J. N. Smithee for Commissioner of State Lands, and G. W. Hill for Superintendent of Public Instruction. Professor Hill had been appointed to the office in December, 1875. Delegates were elected to the National Democratic Convention, Garland's course as Governor and his candidacy for the Senate were endorsed, and a studied effort made to maintain unity and harmony in the party.[4]

In the Republican ranks there was great discord. In April an irregular convention decided that there should be no Republican candidates nominated for State offices, but that action was repudiated as a trick of the bosses and another faction headed by General A. W. Bishop calling for "a new deal" within the party, called a convention at Little Rock for July 27. On that day the Republicans opposed to Clayton and Dorsey assembled in considerable numbers, especially the colored element,[5] and nominated a ticket headed by General Bishop. August 9 the other faction held a convention at Little Rock, with R. A. Dawson, colored, temporary chairman and O. A. Hadley permanent chairman. A full State ticket was named with Joseph Brooks for Governor, and a platform was adopted calling for equality of taxation, education, liquidation of the State debt, and reform in the management of the penitentiary. But the "New Dealers," clamoring for a new policy and new leaders, could not be whipped into the Clayton-Dorsey column. This movement grew so rapidly that opposition to Bishop's candidacy was silenced.

In the canvass following the conventions both parties labored under serious handicaps. Many Democrats bitterly resented the tactics used in securing Miller's nomination and many others believed the charge that he was the candidate of the "State House ring." Moreover, they were sharply divided on the question of settling the State debt. The Republicans were even more seriously troubled. Beginning with division over control of the party and with a candidate not relished by the majority faction, they soon had difficulty in holding their Negro friends in line. The Democratic leaders, by carefully subordinating the question of repu-

3. Van Buren *Press*, June 6, 1876.
4. *Gazette*, June 16, 1876.
5. Van Buren *Press*, August 1, 1876.

diation to appeals for party solidarity against a return to radical rule, easily silenced disgruntled Democrats, and when Bishop challenged Miller to joint debate a united party supported the Democratic candidate with the zeal of crusaders. The economic and social improvement under Garland strengthened the Democratic appeal.

On September 4 the election was conducted in perfect order. The total vote cast for Governor was 108,683, with a majority of 32,000 for Miller. The large Republican vote polled would indicate shrewd direction and effective discipline within the party. The other Democratic candidates received approximately the same vote as Miller, and at the Congressional election on November 7, L. C. Gause, W. F. Slemons, Jordan E. Cravens and Thomas M. Gunter, all Democrats, were elected to Congress. It was a clear victory and won, so Democrats said, on the merits of Garland's administration.

Miller had four months for reflection before his inauguration on January 11, 1877. Within that period his party was organized to support his policies. In his inaugural address he committed himself to a continuation of the policies which in the last two years had restored peace, order, and the majesty of the law. With that he commended the progress made in adjusting the finances of the State, emphasized the importance of adequate support of the free schools, urged the encouragement of immigration, assured the colored people of the protection of the government, and appealed to the people to follow the line of duty during the crisis growing out of the Presidential election of the previous year.[6]

On January 6, 1877, it was published that the State Executive Committee had furnished a Democratic Club Room over the Southern Express offices where Democratic legislators and other prominent men in the party might consult. The same day there went out a call for a party caucus to determine on plans for organizing both houses of the General Assembly. Following these announcements came an earnest appeal for Democratic harmony and intimations of discipline for any who might fail to keep in line.[7]

The twenty-first regular session of the Legislature was organized on January 8, with James K. Jones President of the Senate, and D. L. Kilgore Speaker of the House. The Republican minority was insignificant in numbers and divided in policy. One of the first important acts of the session was the election of ex-Governor Garland to the United States Senate to succeed Powell Clayton on March 4 next. Garland received the unanimous support of the Democrats and ten of the eighteen Republicans. The Republicans who refused to support T. D. W. Yonley, their party candidate, declared Garland merited their support by the progressive measures of his administration.

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6. *Gazette,* January 12, 1877; *Southern Standard,* January 20, 1877.
7. *Gazette,* January 6, 7, 1877.

A large part of the legislation of the session was directed merely at the elimination of abuses brought over from the Reconstruction period. Very moderate appropriations were made for the State institutions, the Commissioner of State Lands was authorized to sell the lands belonging to the Institute for the Blind at Arkadelphia, and provision was made for meeting the interest on the public debt. Provision was made for improvements at the penitentiary, counties were authorized to fund their indebtedness, to put out their convicts for hire or to establish convict farms, and the revenue laws were modified in the direction of lower taxes. A penalty of $100 was assessed for each railroad charge in excess of that prescribed by law, and provision was made for suppressing "the gaming device known as Keno." Appropriations reached a total of approximately $400,000. The persistent effort of a formidable group to repudiate that part of the State debt described as "unjust" raised the most difficult problem before the legislators, but, largely through the influence of Governor Miller, their plans failed to materialize.[8]

Such was the legislative program of the democracy in continuation of retrenchment, economy, reform, and full justice to the colored people. The failure to make provision for the insane was a bitter disappointment to the more progressive element of the party.[9] Their failure to place the debt on a satisfactory basis, coupled with a gesture at tax reduction, further impaired the public credit and made repudiation the chief issue for the immediate future.

A well-known historian wrote that Miller's administration was peaceful, uneventful, prosperous, and, except for biennial elections and legislative sessions, with few incidents worthy of note.[10] But a later study of those years reveals much of significance. Few questions in the history of the State ever agitated the public mind like the proposition to repudiate a part of the State debt. The Finance Board, working with representatives of the holders of certain outstanding bonds of the State, agreed on the Adams-Redfield plan for adjusting that part of the bonded debt considered unjust, and to the eve of the next election the debate continued between the friends of the plan, led by the "Arkansas Gazette," and the repudiationists led by William Fishback. In June, 1877, the Supreme Court held the railroad aid bonds unconstitutional and heightened the temper of the arguments by increasing the hopes of the repudiators. Leaders in that group declared the decision had lifted an unjust burden of $5,350,000, less the interest already paid on such bonds.[11] About a year later the same court declared the levee bonds unconstitutional,[12] and before the Democratic State Convention met there was a change in

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8. *Gazette,* June 21, 1877.
9. *Gazette,* August 5, 1877.
10. Hempstead: *Pictorial History of Arkansas,* 659.
11. *Gazette,* June 16, 1877, State of Arkansas *v.* L. R., Miss. River and Texas Rwy. Co. 31 Ark., 701-22.
12. *Gazette,* June 30, 1878.

the management and policy of the "Gazette" to bring that principal Democratic organ into closer agreement with the party on the financial question.[13] Repudiation had all but triumphed.

Encouragement to immigration was considered by all as absolutely essential to the complete rehabilitation of the Commonwealth. Since the grand excursion of 1875 interest in attracting people to the State had found expression in organized effort. Regional, district, county and local immigration societies, organized by representative men, held conventions, discussed ways and means, and published their proceedings to the world. Pamphlets and prospectuses in astounding numbers, issued by associations and individuals, often prepared for special races or groups, carried throughout the nation entrancing facts about the fertile soil, cheap lands, mild climate, rich mineral deposits, abundance and variety of timber, easy accessibility, and generous hospitality awaiting the new comer on his arrival. On this subject there was no discord, and newspaper reports from all sections of the State suggest that immigrants came in large numbers.

Along with the enlivening discussion of debt adjustment and immigration went the exhortations of farseeing men for encouragement to manufacturers, reduction of cotton acreage, diversified agriculture, restrictions on the liquor traffic, greater liberality in support of public education, better roads, and more railroads. The articulate part of the population, except those absorbed in the spirit and processes of organized politics, were striking out on new paths, and their work was both significant and worthy of note.

The politicians and statesmen worked and thought along the beaten ways of organized politics. Their primary concern was the preservation of party solidarity against the Greenback movement and the insidious snares of political enemies to alienate the old Whigs who had buried their ante-bellum party identity to join the Democrats in overthrowing radicalism. To that end they sought to discredit and weaken the enemy by drawing the Negroes from the Republican camp. No opportunity was lost to remind the colored people of the just consideration they had received under both Garland and Miller.

During the latter part of 1877 and early months of 1878 party leaders, satisfied with the policies of Miller, and fearing the development of a dangerous combination of opposition elements, matured plans to continue Miller and the other State officers in power. April 3 Governor Miller opened the campaign at Dover, and from that date to the convention vigorously defended his record. Colonel Tyra Hill, Colonel Thomas Fletcher, General S. P. Hughes, Judge Bradley Bunch, and Colonel B. T. Embry entered the gubernatorial race and canvassed the State. At the

13. *Gazette,* May 26, 1878.

beginning of the campaign the editor of the "Gazette" admonished the candidates to ring clear on immigration, encouragement to railroads and manufacturing, and development of common schools. This advise was followed, but there was little difference in the position of the gubernatorial aspirants on any issue. It was Miller on his record against the field. And when the appeal to the people was finished the Governor had enough delegates instructed for him to secure his nomination unless the opposition could unite against him.

July 4, 1878, the Democratic State Convention met in the Grand Opera House at Little Rock, with Judge T. B. Hanley chairman. There were one hundred seventy-eight delegates, apportioned among the counties by the State Executive Committee on the basis of the vote cast for Governor in 1876. The keynote speech, delivered by the chairman, emphasized party harmony and party loyalty. After a hot contest of more than a day Miller was nominated with 112 votes on the fifteenth ballot.[14] On the last day of the convention General D. W. McRae reported a platform with clear Greenback implications, straddling on the State debt adjustment, and calling on the next Legislature to submit a constitutional amendment forever prohibiting a tax levy or a money appropriation to pay the levee bonds, the railroad aid bonds, or the unjust part of the Holford bonds. One plank of the platform declared the colored people identified in interest with the Democratic party and invited them to active coöperation in furthering their common interests.[15] The convention adjourned in high spirits, and Miller, though quite too ill to meet the convention when notified of his nomination, went forth on a two months campaign in defense of his record.

On July 29 Andrew J. Chambers, a prominent negro leader, issued a statement that his people could hardly refrain from supporting the whole Democratic ticket, because Miller had wisely continued the policy of good-will begun by Garland. Chambers insisted that the Civil War and Congressional legislation had created abnormal relations between the whites and blacks, in which his people had been betrayed by a "faithless Cleopatra." For the future he would have them coöperate with the Democracy and depend on their natural allies, the whites of the South, for the redress of any grievances they might have. These whites, he thought, would not create any banks for robbing the negroes as had been the case with the Freedmen's Bank and Trust Company. And on this twenty-first plank of the Democratic platform he would have "all hands get together and pull for the shore of permanent mental, moral and social prosperity."[15a]

Advocates of Greenback principles, who felt that the Democrats had

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14. Van Buren *Press*, July 16, 1878.
15. Herndon: *Centennial History of Arkansas*, I, 323.
15a Herndon, I, 323.

not gone far enough in that direction, worked up enough interest to hold a convention in Little Rock in July, but only a few counties were represented. Most of the prominent men in sympathy with the movement declined to take an active part in perfecting a party organization and refused to run on the ticket. Ex-Governor H. M. Rector, though clearly dissatisfied with the administration of Miller, made it clear that he would not head a Greenback ticket. Democratic leaders were waging a bitter fight against the "Greenback dodge" of radicalism to overturn the party in power.[16] The fact that certain discredited Republicans became Greenbackers gave the Democrats a powerful argument for not enlisting in the cause. So, it was reported, the few who met in the convention were so largely Negroes and white Republicans that it failed to make substantial progress. The selection of candidates was referred to a committee, who failed to induce men of influence to accept places on their ticket, and the movement petered out for that year.

The Republicans, convinced that a straight Republican ticket could not be elected, hoped for the development of a Greenback party, which they might support against the majority party. And when the new party failed to materialize and the negro leaders showed a disposition to desert to the Democrats, no Republican ticket was nominated. So, there was no opposition ticket, and Miller received 88,730 votes. This total vote would suggest that either those with Greenback leanings, or the negroes, or both failed to go to the polls on election day. The other candidates on the Democratic ticket received approximately the same support as Miller. At the Congressional election in November the Democrats made a complete victory, Poindexter Dunn, W. F. Slemons, Jordan E. Cravens, and Thomas M. Gunter being elected.

The future seemed bright for the Democracy in Arkansas. If they could prevent the organization of the Greenbackers and win the negroes from the Republicans, their hold on the State would be safe. Still committed to economy, retrenchment, and reform, but without a clear cut program, the party in power seemed to be on the eve of an "Era of good feeling." The twenty-second session of the General Assembly organized on January 13, 1879, with J. T. Bearden Speaker of the House and M. M. Duffie President of the Senate. On his inauguration Miller began his second term with an address which merely stated the problems before the State since he became the chief executive, without committing himself definitely to any specific policies for their solution.[16a]

One of the first matters to engage the lawmakers was the election of a successor to United States Senator Dorsey. The State had been thoroughly canvassed by the candidates and for the most part the legislators were virtually instructed, but since no candidate had a clear majority a

16. Van Buren *Press*, July 23, 30, 1878.
16a *Gazette*, January 16, 1879.

spirited contest developed between R. W. Johnson, M. L. Bell, A. W. Bishop, and J. D. Walker. On the seventh ballot Walker was elected by sixty-eight votes. Immediately there went up charges of bribery in connection with the election and an investigation was made, but no actual proof was revealed through the testimony.[17]

There was little harmony throughout the session. After five weeks of deliberation, it was asserted that they had enacted no great measure, had established no constructive policy, and had not accomplished anything on education, immigration, railroad encouragement, or an insane asylum. At the same time Dr. A. H. Scott, penitentiary physician, was waging a losing fight against Zeb Ward, the contractor for convict labor.[18] The Finance Board was revived, and a law was enacted to discontinue receiving the Holford bonds in payment of taxes. A number of acts passed conditionally granting lands forfeited for taxes in twenty or more counties in aid of railroad construction. County courts were empowered to create levee districts. On March 8 an act passed to repeal the law permitting the sale of liquor in quantities less than one quart and requiring a license from the county court to sell liquors in any quantity or for any purpose. This act together with the high fees required of dram shop keepers curbed the traffic. The most significant act passed was that for the submission of a proposed amendment to the State constitution prohibiting the General Assembly from levying a tax or making an appropriation to pay the interest or principal of the "Funding bonds," usually called the Holford bonds. Congress was memorialized to appropriate money to check the encroachment of the Arkansas River on the city of Pine Bluff and to pass a bill, then before a committee of the House of Representatives, to create a commission of colored men to inquire into the intellectual status of the colored people of the Southern States.

The legislative measures in encouragement of levee and railroad construction reflected progress in the material development of the State. Governor Miller in his inaugural address had called attention to the advancement made in industry and immigration, the cessation of political strife, and the decrease in personal indebtedness. In this same year E. F. Babcock and M. W. Manville organized the State Horticultural Society, designed to give scientific and concerted direction to the growth of fruits and vegetables throughout the State. From its organization the society became an active agent in the encouragement of horticultural exhibits and within ten years succeeded in promoting the first significant State fair at Little Rock. About the time the horticulturists were organizing the United States Weather Bureau sent William Line to Little Rock to establish the first station of that service in the State. The offices of the bureau began making regular reports on July 1, 1879. At the same period

17. *Weekly Gazette,* March 17, 1879.
18. *Arkansas Democrat,* March 27, 1879.

the Western Union Telegraph Company installed the first telephone service in the capital city. Within a year eighty patrons had subscribed for the service.

During the summer of 1879 the people of Arkansas experienced another fear of yellow fever. When that disease made its appearance in Memphis, as it had in the previous year, Governor Miller acted promptly. In the absence of regularly constituted quarantine officers and regulations, the Governor, by proclamation, clothed a committee of the State Medical Society with the usual powers of a State Board of Health. As the danger became more threatening the committee established stringent regulations and with the coöperation of the peace officers and physicians residing in the more exposed sections prevented a spread of the epidemic to the State.[19] While the fear of the scourge depressed the people and the rigid enforcement of measures for combating it provoked serious protest, its appearance after crops had been cultivated and its effective control before the harvest season was fully on saved the State from serious material loss from that source.

Industrial expansion, agricultural development, improvement in facilities of transportation, and the yellow fever scare did not monopolize the interest of public men. Throughout these months migrations among the colored people caused deep concern. The circulation of printed matter and the activities of so-called labor agents among the negroes in neighboring states, occasional reports of the presence of similar influences within the confines of Arkansas, and subtle rumors of an undercurrent of restlessness among the colored farm population impressed upon statesmen and planters the importance of commending Democratic rule to that element of the population.[20] And while laboring with the problem party leaders of the dominant faction were harrassed by the aftermath of the old bribery investigation of the last session of the Legislature. Moreover, there was just then an increasing volume of greenback sympathy manifested in Democratic ranks. Early in August Rufus K. Garland published his determination to leave the dominant party, charging that in the preceding biennial contest the Democrats had undermined the Greenback movement temporarily by promises which had not been fulfilled.[21]

When Garland's declaration appeared it was perfectly clear to the politicians that serious danger confronted the conservative Democracy and it could be averted only by preventing the thorough organization of a Greenback party in the State. The State Central Committee of that party published an address to the people attributing the economic depression of the period to the failure of both of the old parties to inaugurate the fundamental Greenback policies. In reply to that address the Demo-

19. *Arkansas Democrat,* May 28, 1879.
20. *Arkansas Democrat,* April 17, 1879 and *passim.*
21. *Arkansas Gazette,* August 5, 1879.

crats argued that conditions were improving, that there was evident a general rise in the prices of farm products, and that nothing could be accomplished through the organization of a new party which might not be fully realized through a continuation of Democratic rule.[22] The people were reminded of the fact that instead of the Greenback predictions of economic ruin unless the Federal Government increased the money in circulation to fifty dollars per capita, the cotton crop of the past year had brought that much to the people without resorting to fiat money[23] and the fight went on with increasing tenseness.

The biennial State election of 1880 was set for September and the Congessional election for November 2 following. Candidates in profusion announced early and began the pre-convention canvass. Miller had third term aspirations and a tremendous following to support them. The Hon. W. P. Grace announced for Governor, and called on all aspirants to the same office to join him in discussing the leading issues of the day and to the middle of June carried on a thorough canvass. The most important issue discussed was the proposition embodied in the proposed amendment to the Constitution.[24]

June 2 the Democratic State Convention assembled at Little Rock and organized with Hon. Bradley Bunch chairman. All the counties were represented except Montgomery and Poinsett, and the delegates were fired with zeal for their respective candidates. The strong probability that the Republicans would not place a ticket in the field and the failure of the Greenbackers to develop a strong party practically assured the election of the convention's nominees in September. The disposition to trade was strong. It was decided to nominate candidates first and then adopt a platform. On the first ballot Churchill, Miller and Wilson received 98, 65 and 43 votes respectively, while Grace received 8, Fishback 6, Smithee 4, and M. M. Duffie 2. The balloting went on with slight variations of fortune, except for the elimination of the low candidates until on the twenty-fourth ballot Churchill secured the prize. E. H. English was nominated for Chief Justice. The platform adopted favored equal rights and untrammelled suffrage, free schools, encouragement to immigration, attracting of capital to the State, and the removal of the question of the bonded indebtedness from the realm of party politics by the submission of the amendment proposed in 1878 to a vote of the people.[25]

Fourteen days after the Democrats adjourned the Greenbackers met in convention at Little Rock and nominated W. P. Parks for Governor. The declaration of principles followed closely the address issued by the State Central Committee of the party in the previous autumn. The ticket

22. *Arkansas Democrat,* October 2, 1879.
23. *Weekly Arkansas Democrat,* March 18, 1880.
24. *Arkansas Democrat,* March 4, 18, June 14, 1880.
25. *Arkansas Democrat,* June 3, 1880.



COURT HOUSE AND CONFEDERATE MONUMENT, ARKADELPHIA

was acceptable to a majority of the Republicans and the members of that party showed no concern about the principles on which the candidates were running. It was sufficient for them that the new party proposed to wrest the government of the State from the Democrats. As it turned out, there was no straight Republican ticket in the race.

After the asperities incident to the contest for the nominations assuaged and the defeated candidates and their friends accepted the ticket the Democrats settled down to a well directed canvass of the State. Churchill was popular and enjoyed the confidence of all classes of the people. What he lacked in enthusiasm was supplied by the members of the State Central Committee who joined other spellbinders in keeping the people indoctrinated with sound Democratic principles on the proposed constitutional amendment and party loyalty. Where sound argument failed them resort was had to ridicule and often derision in combating the Greenbacks. Parks, like Rufus Garland, was a sincere and capable man, whose very nature protested against the economic hardships and discriminations under which the agricultural classes labored. He threw himself into the canvass with dead earnestness and stirred the emotions of the farmers and small business men wherever he spoke. "Buck" Parks, as the Arkansas "Democrat" called him, was a formidable campaigner and wherever he spoke the people flocked to hear him. He created for the Democrats fear out of all proportion to the actual danger.[26]

On the proposed constitutional amendment the Democrats had increasing trouble. For the most part men of importance in business were opposed to any step in the direction of repudiation, but those with political ambition were gradually yielding to the popular demand for the amendment.[27] In the press and from the platform, William Fishback with fanatical zeal advocated its adoption as a measure just in principle and wise in economy. The opposition to adoption was cautious, tactful, less enthusiastic than the friends of the measure, and composed almost wholly of Democrats. Augustus H. Garland spoke out in no uncertain terms in opposition to repudiation.

On the sixth of September 115,488 votes were cast for Governor, Churchill receiving 84,088 to 31,284 for Parks, and 116 scattered amongst sixteen others. That was a considerably larger total vote than had been cast in 1878 when Miller ran without opposition for a second term, and Parks' vote would suggest that either the Republicans failed to vote for him or very few Democrats deserted their party for the Greenback candidate. The evidence is strong that the Republicans took little interest in the election. Different results came out in the presidential election

26. *Arkansas Democrat,* August 18, 1880.
27. *Arkansas Democrat,* June 21, 1880.

two months later. At that time the Democratic presidential electors received only 60,775 votes to 42,436 for their Republican opponents and 4,079 for Weaver and Chambers. In the Congressional election Poindexter Dunn, James K. Jones, Jordan E. Cravens, and Thomas M. Gunter, all Democrats, were returned to the House of Representatives. It would seem that after it was determined that the Democrats should continue in power in the State, members of that party had less interest in party politics and the Greenbackers refrained from voting or supported the National Republican ticket. In the Congressional race James K. Jones waged a masterful campaign against the Greenback heresies upheld by Rufus Garland. Brilliant, charming, sympathetic with the feeling of discontent in the minds of the farming classes, but convinced that only through the Democratic party could their economic burdens be alleviated, Jones registered an appeal which proved fatal to the third party in Arkansas.

On the question of adopting the constitutional amendment, party lines counted for little, but the announcement of the result stirred up a great deal of ill-feeling. The constitution required that an amendment be submitted to the electors at the "general election for senators and representatives," and "if a majority of the voters voting at such election" approved, then it should become a part of the constitution. The Legislature of 1879 passed an act regulating submission by the Secretary of State and providing that the Secretary, the Governor, and Attorney-General should be a returning board to canvass the returns and announce the result.[27a] The act was neither vetoed nor signed by the Governor and the Secretary of State, Jacob Frohlich, says that he copied it "verbatim, et literatim, et punctuatim."

After the election he proceeded to carry out the law just as he had copied it. The vote on the amendment was 64,497 to 41,049. This was a majority of the vote cast for state offices, 115,428 for Governor, but the Secretary, following the law "verbatim, et literatim, et punctuatim," wrote to each county to ascertain the vote cast at every precinct and found that it was 132,985. The facts he reported to the board which subtracted 64,497 from 132,985, which left 68,488. They then subtracted 64,497 from this number and got 3,991, which they announced as the majority against the amendment.[27b] This method appeared to be without rhyme or reason and aroused severe criticism. But those who favored adoption did not get at the heart of the trouble. They simply said that the canvassers should have taken one-half of 132,983 plus one, that is 66,493, and subtracted 64,497 from this, leaving only 1,996 as the majority against adoption. In either case the amendment was defeated, but the

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27a. Acts of 1879, pp. 128-31.

27b. *House Journal*, 1861, p. 40. Public Documents, 1880-81, pp. 17-18, 34-37. St. Louis S. W. Rwy Co. *v.* Kavanaugh, 78 Ark., 472-73. Herndon, I, 326. *Arkansas Democrat*, October 26, 1880.

bitter criticism of the board probably helped to carry the amendment next time.

The Legislature of 1883, as we shall see, resubmitted the amendment, but it also passed a new law regarding the canvassing of the vote. The returns were to be sent to the Speaker of the House and he was to declare the result.[27c] Nothing was said about what should be considered the total vote, but the speakers appear to have been guided, for the most part, by the vote cast for Governor.

When Miller retired from the Governor's office conservative Democratic rule had had approximately six years in which to prove itself. During that period the population of the State had increased materially. Natural increase had been normal and additions through immigration had been the heaviest the State had ever witnessed. The Southern and Western Immigration Convention at New Orleans in 1876 decided to hold its next annual session at Little Rock in March, 1877, and appointed T. B. Mills, J. M. Pomeroy, J. N. Smithee, A. R. Winfield, and W. A. Wheeler a committee for Arkansas to organize county committees and a State organization. The committee pushed its work diligently, and when they considered the preliminary work sufficiently advanced, a call was issued for a State convention. The convention met at Little Rock on February 1, 1877 to organize a state-wide association to encourage immigration. Since the Legislature was in session at that date the convention attendance was large and thoroughly representative of the best interests of the State. The association was perfected with T. B. Mills, president; Jesse Turner, vice-president; J. D. Durden, recording secretary; W. A. Webber, W. E. Warren and J. G. Battenfield, corresponding secretaries; and Logan H. Roots, treasurer.[28]

The year preceding, this organization had witnessed the founding of a number of German colonies in the western counties with a center of influence at New Subiaco, and through the activities of the new organization, within two years German immigration became a matter of prime importance. In 1879 Morrilton and Conway received a great many families of that nationality. By the last year of Miller's administration the inflow of Germans both from the old country and from Indiana, Illinois and Pennsylvania had become fairly regular. About the same time many Polish people came, two hundred families of that nationality locating at Marche in the single year of 1880. These were but high points in a steady, if light, flow of foreigners into the State. By 1880 the population of the State reached 802,525

Conservative rule had been successful in commending the State to people abroad. These years had brought measurable progress in other lines. Taxes had been somewhat lowered, business conditions had

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27c. Acts of 1883, p. 70.
28. Publications Arkansas Historical Association, Vol. III, 212.

improved, a beginning had been made in the direction of legislative encouragement to industry, and the resources of the State had been thoroughly advertised. In the interest of economy, financial support of the charitable and educational institutions had been exceedingly meager, no asylum for the insane had been provided, nor had the public schools received the support commensurate with their increasing burdens. The State debt was not substantially reduced, nor the public credit appreciably improved. The party of conservative home rule had reduced its radical opponents to a helpless minority and had successfully overcome the fusion of those radicals with the Greenbackers. To be sure its own ranks were violently agitated over the question of repudiation, but it was believed that steps had been taken to remove that discussion from the realm of party politics. Therefore Churchill entered the Governor's office with as bright prospects as ever faced a chief executive on taking up his duties in Arkansas.

CHAPTER XXI.

A CHANGING CONSERVATIVE DEMOCRACY.

The biennial session of the legislature met on January 8, 1881. Hon. H. C. Tipton was elected President of the Senate and Hon. George Thornburg Speaker of the House. On the sixth day after organization General Churchill was inaugurated with considerably more pomp and ceremony than his immediate predecessors. The Thalian Club, of which the new Governor was a member, gave a grand inaugural ball, the most elegant social event of many seasons in the capital city.[1] The legislature being ready for business the Governor's address embodied the recommendation of measures of major importance. At that early stage the Governor was quite in harmony with a large majority of both houses of the general assembly, and the program started auspiciously. Acts were passed to lease the penitentiary, to regulate freight and passenger rates on railroads of fifty miles or less, to extend the time limit for the completion of one railroad and to regulate the construction of toll bridges by railroads across streams.

The temper of the legislators towards railroads was further reflected when the Governor communicated to them a message from Jay Gould expressing fear that the enactment of pending legislation would retard railroad development in the State. After earnest work on the part of its advocates, and contrary to popular demand, a bill to prohibit railroads issuing free passes to State officials failed to pass. Provision was made for the establishment of a medical department of the Industrial University, an appropriation of $10,000 was made for additional buildings at the Branch Normal for Negroes, and a tax levy of one mill for two years was made to provide the sum of $150,000 for the establishment of an asylum for the insane. In response to persistent urging by the press and medical fraternity a State board of health was created. By resolution the legal pronunciation of Arkansas was prescribed.

Agitation against the liquor traffic began to bear fruit. A general law was now passed regulating the voting at general elections to determine whether county courts should license liquor selling, twelve separate acts prohibited the sale of ardent spirits within specified mileage of designated places, and a general law forbade the sale or gift of vinous, spirituous or intoxicating liquor of any kind within three miles of any academy, college, or church in the State.

Legal authority was conferred on the auditor and treasurer not to report the railroad aid bonds, the levee bonds or the Holford bonds as part of the State's indebtedness. The State board of finance was con-

1. *Arkansas Democrat,* January 14, 1881.

tinued for two years and empowered to sell six per cent. bonds at not less than three-fourths of their par value to manage the debt. An appropriation of $270,000 was made for interest and principal payments arising out of the board's transactions for a period of two years. A total of $368,881 was appropriated for the expenses of the general assembly, the maintenance of State institutions, and the departments of state for the next two years.

A bitter fight was precipitated by the introduction of a bill to relieve General R. C. Newton and his bondsmen from payment of money lost to the State while he was treasurer. Stoddard's bank failed in 1874 as Newton was taking over the affairs of the treasurer's office from Henry Page, and the failure caused a loss of several thousand dollars to the State. The legislature of 1879 had relieved Newton in part, but now relief was asked for losses discovered since that date. The measures failed to pass, but its discussion afforded an opportunity for the friends of Page and Newton to try to shift the responsibilty from their respective favorite.

On the surface the course of conservative Democracy was running smoothly. Assured of another two years' tenure and facing somewhat the economic and social exigencies of the new age in their program, there was little to darken their prospects. Friction over legislative policies had not been altogether removed nor had the spirit of faction been wholly curbed. But a leadership of the *ante-bellum* type, proud of its long record of personal integrity and official capacity in public men, was still guiding its fortunes through the party spirit and convention methods of the 'eighties. In the midst of the calm, rumors arose involving the new Governor, and with him the question of the capacity and integrity of his party. It was an indictment of the party and could not pass unnoticed.

In the Senate on March 17, 1881, the committee on Auditor's and Treasurer's books reported that after partial investigation they had found that $50,237.23 in State scrip belonging to the permanent school fund had been burned by mistake along with other scrip. The report said further that the committee had found that for several years no proper investigation had been made of the books of the Auditor and Treasurer and that it would require a month or more to look into the whole matter properly. Two days later the committee reported that it was "an imperative necessity" for the Senate to provide for an investigation before adjournment.[2] Such an investigation was demanded, the report ran, by certain discrepancies in the Treasurer's accounts and of justice to both the present Treasurer and his predecessors. After considerable parliamentary fencing the Senate voted 16 to 13 to instruct the committee to make a thorough investigation after adjournment of the general assembly and report its findings. A subsequent resolution directed the report to

2. *Senate Journal,* 1881, 421, 450.

be deposited unsealed in the office of the Secretary of State. A day later it was agreed that the report be made also to the Governor's office.[3] On the day of adjournment the committee submitted to the Senate a statement from W. E. Woodruff, Jr., showing that according to the Treasurer's books the sum of $47,105.60 in scrip funded for bonds had not been accounted for, and according to the records of the finance board an additional sum of $19,105.60 was missing.[4]

Just before the committee made this last report Governor Churchill sent to the Senate a statement urging that body to proceed with the investigation contemplated and to report to him in order that he might proceed to protect the interests of the State. While calling attention to the fact that the failure of the House to join the Senate in making the investigation made it impossible to conform strictly in the statutes governing the Treasurer's books, he expressed a desire for the committee report and assured them that the fact that the present Governor had been the late Treasurer would not deter him from doing his official duty.

The House of Representatives experienced more difficulty with the problem than did the Senate. On March 4 that body's committee on Auditor's and Treasurer's books reported that on June 26, 1879, contrary to law, State scrip to the amount of $50,237.22 belonging to the permanent school fund had been burned. Eight days thereafter the committee submitted two exhibits similar to those submitted in the Senate showing the same differences between the accounts of the Treasurer and those of the board of finance.[5] After the lapse of eight days the refusal of the House to continue its share in examining the Auditor's and Treasurer's books provoked Representative Henry to explain why he had favored an investigation. Henry declared that the record of the Democratic party for the last six years had been questioned by the committee on a partial investigation; that discrepancies amounting to $47,000 appeared to exist in the books under consideration; that the books of the treasurer and the finance board were at variance; that scrip amounting to $50,000 and belonging to the school fund had been destroyed contrary to law; that $900,000 of State scrip had been burned without record; that no proper examination of the treasurer's books had been made since 1873; and that the Republicans were seeking to prevent an investigation in order to destroy the confidence of the people in the integrity of the party in power.[6] This was a serious indictment in itself and encouraged the minority to continue to demand that the whole matter be cleared up.

Mr. Whitson on March 18th offered a resolution that "Thomas J. Churchill, Governor of the State, be impeached of high crimes and mis-

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3. *Ibid.*, 583, 600.
4. *Ibid.*, 603-04.
5. *House Journal*, 1881, 493, 599-600, 668.
6. *House Journal*, 1881, 493, 599-600, 668-69.

demeanors and misconduct in office." The proposition failed by a vote of 17 to 36, leaders of the majority asserting that the movement was merely an attempt by Republicans for party purposes. But just before its final adjournment the House agreed to a concurrent resolution creating a committee to make the investigation demanded,[7] and appointed its members. The evidence is strong that the administration Democrats were on the defensive and did not care for a full exposure. While the Republicans and anti-administration Democrats and Greenbackers were interested primarily in reflecting on the Governor's official record.

The investigating committee proceeded leisurely from the time the members were appointed to the eve of the next legislature. Throughout that period the "Arkansas Democrat" demanded a thorough examination and an early report. The committeemen and a special clerk, all employed on a six dollar per diem, followed their own plans and declined to make their findings immediately public. Governor Churchill declared his readiness to go before the committee and his ability to account for every discrepancy, but he was slow in doing either. He employed an accountant to care of his interests while his books were under examination and Judge Rose was employed as counsel by the bondsmen involved.[8] The more patient leaders, especially those concerned primarily with the effects the cause might have on the next election, explained the tediousness of the investigation, assured the public that the committee's work would be thorough and the report honest, and that the State should lose nothing in the outcome. But another group, including the editor of the "Arkansas Democrat," showed a determination to humiliate the Governor as well as shift the whole responsibility onto him.[9] When it appeared that the committee would not soon make a report, it was urged that the matter be cleared up before the next State election; and when that suggestion failed certain editors demanded in the interest of party harmony that the truth be revealed before the next legislature convened.

When finally the report appeared it placed the shortage of the late treasurer at about $14,000. But the succeeding legislature declined to accept that as final, and proceeded to appoint another committee to go into the matter. This last committee in a much shorter investigation placed the alleged shortage at something more than $233,000. The attorney general declined to take up the problem so long as it was under legislative investigation, but when the final report was made the Governor placed it in the hands of that officer. There it rested until Churchill's successor was in office. On May 30, 1883, suit was brought in chancery against Churchill and his bondsmen while treasurer. The case was finally referred to T. H. Simms, special master, who found the shortage

7. *Ibid.*, 707, 740.
8. *Arkansas Democrat,* January 20, 1882.
9. *Arkansas Democrat,* January 21, 1882.

to be $80,522. The State supreme court on appeal sustained the decree and the defendants paid that amount.[10]

The defendants insisted that the apparent irregularities were due to errors in bookkeeping and failures to record proper credits due. Most of Governor Churchill's contemporaries, especially his closest acquaintances, accepted that view. The lay student who finds his way through the meager records of the investigation, through the technicalities of its legal aspects, and through the partisan rancor enmeshing the whole affair, accepts the decree of the court as just and the explanation of the defendants as probably true. Judging from the standing of General Churchill through the remainder of his life he was fully exonerated.

The legislative investigation was not the only difficulty Governor Churchill had to overcome. In midsummer of 1881 disturbances of a serious nature arose in Perry County, centering about the village of Perryville. Factional bitterness had been smoldering there for months. One faction had reached the conclusion that they were suffering gross injustices at the hands of a county judge who was exceeding his rightful jurisdiction. The judge reported to the Governor that on account of a general spirit of lawlessness throughout his county he could not perform his official duties. As a case in point, he cited the burning of the office of the "Fourche Valley Times," whose editor, J. L. W. Matthews, had been accused of inspiring the county judge's policies. On authority of the Governor, General R. C. Newton investigated the situation throughout the distracted area and reported that the judge had become distasteful to many people, and that Matthews was suspected of being allied with him. Newton recommended a special term of circuit court for the trial of those suspected of destroying property. But before such a court could be held Matthews was assassinated, the sheriff became timid, and a request was made for aid from the State. The Governor employed W. L. Terry as special council to help prosecute those charged with the murder of Matthews and sent General Newton with the Quapaw Guards to help enforce the law. The militia remained on duty in that region about three weeks, or until the civil authorities felt able to handle the situation. The affair passed without serious incident, except the death of Matthews, but the people of Arkansas had been called upon to experience again the distasteful presence of the militia, and it further weakened Churchill.[11]

Other problems now arose from the disastrous floods of 1881 and the succeeding year. Large sections of the eastern counties were visited with unprecedented overflows, carrying destruction to property on a large scale and leaving hundreds of people in destitution, and the financial standing of as many more seriously impaired. The severe drouth of 1881 had followed the high waters of that year, the two visitations

10. Hempstead: *History of Arkansas,* 673.
11. Hempstead: *History of Arkansas,* 672.

bringing the farmers and merchants serious loss.[12] Then in February of the next year another series of overflows came, wider in scope and more destructive of property.[13] Relief work on a large scale was required, and the United States Government, as well as private agencies, contributed generously. It was by his unceasing attention to this matter that Senator Garland so endeared himself to the people that partisan opposition to his reëlection to the Senate was practically buried.[14] Rations were distributed to an extent which evidently alarmed some of the more cautious over the effects it might have on its recipients.[15] In less than a year the people were described as in "great consternation" as they faced the prospect of another disaster of the same kind.[16]

Through twenty months of the two years Churchill was Governor his political fortunes declined and the temper of the people grew worse. His record as Treasurer was handled mercilessly by his political enemies, and his party felt the sting of it. The Governor's friends made a poor showing in their efforts to defend him.[16a] for the responsibility had to be located. Friends of other aspirants to the Governor's chair demanded that the party be cleared of all responsibility and keep itself untarnished by presenting for office only those of proved ability and integrity. At the same time a number of men were laying plans to capture the nomination for Governor at the next Democratic convention. It all made a lively prelude for a political contest which taxed the genius of the statesmen who directed the party of economy, retrenchment and reform.

Preliminaries of the campaign of 1882 began early. In January announcements of candidacies began, and a call was made for the Democratic State Central Committee to meet on March 14 to fix the time and place for the party State convention. A full attendance was urged in order that there might be a clear understanding within the party. The committee met at the time appointed and agreed to call the convention for June 15, at Little Rock, and to allay the protest against the basis of previous representation decided that delegates be apportioned on the basis of the average of the Presidential, Congressional and gubernatorial vote of 1880.[16b] Thereupon the preconvention canvass became vigorous. Col. M. M. Duffie, W. W. Floyd, J. H. Berry, W. P. Grace, and T. E. Stanley entered the race for Governor, and all but Berry announced their intention to speak to the people. It was reported that Judge Berry would not leave his court to make a canvass. The only issue of consequence was the resubmission of the Fishback Amendment to the people, and all candidates were expected to pledge themselves to favor resubmission.[17]

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12. *Arkansas Democrat,* July 22, 1882.
13. *Arkansas Democrat,* February 2, 22, 1882.
14. *House Journal,* 1883, 108.
15. *Arkansas Democrat,* April 4, 1882.
16. *House Journal,* 1883, 613.
16a. *Arkansas Democrat,* February 27, 1882.
16b. *Arkansas Democrat,* March 3, 1882.
17. *Arkansas Democrat,* April 13, 1882

The "Arkansas Democrat" led a hard fight against resubmission, but Fishback was unceasing in his advocacy of letting the people pass on the amendment again. As the canvass proceeded and local conventions began to select and instruct their delegates the "Democrat's" warfare against the amendment grew remarkably tame. Resubmission was as good as carried and nobody seemed willing to stir the Churchill episode, and beyond these matters there was little of interest in the contest. On the importance of a united Democracy all factions and candidates were agreed.[18]

The convention met at noon June 15 in the Grand Opera House, and the other candidates having withdrawn, Judge Berry was nominated by acclamation.

The platform caused as little trouble as the selection of a candidate. Everybody realized that the main plank was to call for the next legislature to submit the Fishback Amendment, and the only matter on which there might be differences of opinion was as to the definiteness of commitment on that proposition. Fishback himself was not honored with a place on the platform committee and the ranker resubmissionists became nervous. But when the committee made its report the declaration on the amendment was so clear that General Shaver, of Howard County, demanded an interpretative resolution declaring the plank a mere recommendation without committing the party on the issue, leaving each Democrat free to vote as he pleased in the interest of harmony. Since it was perfectly clear that harmony could exist on no other basis than clear-cut resubmission, the resolution was allowed to pass. The platform was rounded out by declarations for the adjustment of the debt question in accord with the best interests of the State and the wishes of its citizens; for the funding of the just part of the debt, the payment of interest thereon and the creation of a sinking fund to pay the principal; for strict accountability of public officials and the speedy enforcement of all demands due the State; and for free public schools and legislative measures to bring labor and capital to the State. A proposition by Geo. W. Caruth to request the next legislature to call a convention for the purpose of submitting an amendment as a substitute for the Fishback proposition was voted down with a whoop.

On the ticket with Berry were placed Jacob Frohlich for Secretary of State; A. W. Files, Auditor; W. E. Woodruff, Jr., Treasurer; Charles B. Moore, Attorney-General; W. P. Campbell, Commissioner of State Lands; W. W. Smith, Associate Justice; James L. Denton, Superintendent of Public Instruction; and C. R. Breckinridge for Congressman-at-large. Denton, on account of ill health, declined the nomination, and W. E. Thompson replaced him.[19]

The Greenback state convention met in the United States court room

18. *Arkansas Democrat,* June 5, 1882.
19. *Arkansas Democrat,* June 15, 16, 1882.

at Little Rock on June 21. The attendance was quite small. Thirty-two delegates representing eleven counties were reported, and of that number seven came from White County and nine from Pulaski. Nevada and Lafayette each sent three, Hempstead and Garland sent two each. The delegates present claimed to hold proxies for a number of other counties. O. S. Jones, of Nevada County, and D. S. Hicks, of Hempstead, were elected president and secretary, respectively.

The platform as adopted advocated the full legal tender value of United States notes; the retirement of national bank notes and their replacement by United States treasury notes; the issuance by the federal government of enough money to meet the needs of the people; the taxing of the United States bonds equally with other property; the adoption of the Fishback Amendment; the proper support of free schools; the holding of the State and Congressional elections at the same time; the prosecution of all defaulters; the encouragement of immigration; the legislative regulation of freight and passenger rates. They opposed the contraction of the currency beyond the needs of the people, an increase of the interest bearing debt, and the relief of official bondsmen. The Democrats were denounced for failing to encourage industrial development.[20] Rufus K. Garland was nominated for governor, and the convention adjourned in perfect harmony. The ticket, the platform and the central committee were practically free of Republican taint.[21]

The Republican State convention met in the hall at Alexander Park at noon on July 6. The question of fusion with the Greenbacks had been settled and the convention was prepared to nominate candidates and issue a declaration of principles. J. H. Johnson, a colored delegate from Woodruff County, was elected temporary chairman. All but three counties of the State were represented in some measure, and harmony prevailed. Permanent organization was effected by the election of Powell Clayton, chairman.

According to current reports party spirit ran high. Except for an occasional burst of impassioned oratory by the more radical members, the color line was not much in evidence. However, the colored element was clearly recognized both in the organization and on the ticket. The committee on resolutions reported a platform, the main feature of which was a denunciation of the Fishback Amendment and an arraignment of Democratic government. W. D. Slack, land commissioner for the Little Rock and Fort Smith Railroad, was unanimously nominated for Governor, and there was associated with him a strong ticket, the most notable being Professor R. H. Parham for Superintendent of Public Instruction.

The platform and ticket were clearly representative of the best element in the party. Not yet able to see how successfully the Democrats would overcome the Churchill muddle, the Republicans entertained hopes

20. *Arkansas Democrat,* June 22, 1882..
21. *State Gazette,* June 22, 1882.

of pushing their enemies to dire extremities in the contest. In seconding Slack's nomination a speaker predicted the defeat of the party of "whereases, repudiation and bad grammar." In the selection of Prof. Parham, it was thought they had chosen a sure winner, but the Democrats set up the claim that Parham was a strict construction, states' rights Democrat of the old school, and was being run on the Republican ticket solely to embarrass and perhaps divide the Democratic party.[22] A ticket with Slack and Parham on it was highly creditable to the Republican party.

As soon as the conventions were over the canvass began in earnest. According to a conservative estimate the voters of the State were under normal conditions about as follows: 80,000 to 90,000 Democrats, 40,000 to 50,000 Republicans, and 12,000 Greenbackers. And since each party had put forth a candidate and a platform acceptable to a vast majority of its constituents, there was little chance for developments out of the ordinary. The Democrats, boasting that they had nominated only men against whom there was neither spot nor blemish, claimed that under their rule taxation had been reduced, the public schools improved, and economy introduced in every department of government. The Republicans, calling for a "free election and a fair count," denounced their Democratic opponents as defaulters, repudiators, and enemies of the public schools. Campaigning reached an interesting stage when the Democrats were charged with extravagance. Their reply was a cold exhibit of the comparative costs of government under the two parties from 1868 to 1882, showing that their rule had been slightly less than one-fourth as burdensome to the taxpayers as had been that of the Republicans.

On July 21 Senator Garland, at the request of his party, issued an appeal for the Democratic ticket and one week thereafter the State central committee of that party issued an address calling for hearty support of their standard-bearers. The chief concern of the party in power was to keep their disaffected brethren from going off with the Greenbackers. It appears that neither Greenbackers nor Republicans had much hope of making many converts from the ranks of the major party.

The election on September 4 passed in perfect calm. Of the 147,169 votes cast for Governor, Berry received 87,675, Slack 49,352, and Garland 10,142. This gave a total vote of 59,494 against the Democrats, whereas, in 1880, the total vote for the fusion ticket was only 31,284. While the Democratic vote increased only 3,567 over that of 1880, the opposition was increased by 28,210 votes. Considering the Churchill episode, the party's attitude on the Fishback Amendment, and the popularity of the Greenback candidate it is remarkable that the Democrats increased their vote at all. Apparently the great majority of the fusionists of 1880 now

22. *Arkansas Democrat,* July 6, 1882.

returned to their old party allegiance, leaving for the Greenbackers only the personal following of Colonel Garland and Colonel Parks.

As soon as the State election was out of the way the politicians put renewed vigor in the Congressional canvass. Breckinridge covered the State, and Jones, Rogers, Dunn and Peel covered their respective districts, with an intensive canvass. Dunn and Peel had no opposition by the end of the campaign, but in the state-at-large and the other two districts the opposition waged a strenuous contest, with the Greenbackers for the most part supporting the Democrats or refraining from participation altogether. In the two districts where the contest was hardest, Jones' majority was 3,306 and Rogers' 2,682.[23]

The Democracy had triumphed, Churchill was eliminated, Berry was elected, and the paramount duty of the party clearly prescribed; but there was anxiety as to what the approaching legislature might do. On November 18 the "Arkansas Democrat" warned the legislators soon to meet to leave the school law and the liquor law as they were, and within a month it laid out a program for the general assembly. According to the views of the editor of that paper the people were agreed that Garland should return to the Senate; the State be redistricted for Congressional purposes; the Fishback Amendment be resubmitted; a sound revenue law enacted; and provision made for digesting the laws of the State.[24] The same editor insisted that a State bureau of statistics be established.

The general assembly met in its twenty-fourth regular session on January 8, 1883, and organized by electing W. C. Braley Speaker of the House and J. B. Judkin President of the Senate. Governor Churchill's retiring message, read by his son, touched on a number of State problems, recounted the progress made during his administration, assured the public that the facts revealed by the investigation of the Treasurer's books had been turned over to the attorney-general with instructions to care for the interests of the State, and reviewed the state of society briefly. He found that agriculture had flourished in spite of the unexampled disasters of the past year, and that more railroad mileage had been added in the past two years than during any other like period.

On the third day of the session the vote for State officers was officially canvassed and James H. Berry declared elected Governor. Two days later Berry was inaugurated and delivered a matter-of-fact address in the nature of a message to the general assembly. Acknowledging the blessings of abundant harvests, rapid internal improvements, freedom from internal discord and increasing prosperity, the new Governor declared the present condition of the bonded indebtedness of the State an annoyance which had retarded immigration, had engendered ill feelings, and had stood in the way of making provision for the undisputed

23. *Arkansas Democrat,* November 18, 1882.
24. *Arkansas Democrat,* December 20, 1882.

obligations. Accepting the court's decision as final on the constitutionality of certain bonds, he asserted that since the State had already paid on the Holford claims all which in any view could be claimed as just the subject should be referred to the people for decision. Since the total amount of the State taxes upon railroad property exclusive of lands for the previous year was only $2,400, attention was called to the provision of the constitution requiring that all property be taxed equally. With assurances of his desire to coöperate with the legislative branch he urged a better revenue system, the encouragement of immigration through the adequate enforcement of the laws for the protection of life and property and by guaranteeing to all comers their equal political rights. He believed the State and Congressional elections should be held on the same day and that full coöperation should be given to the promotion of all the educational interests of the commonwealth.[25]

The lawmakers had consumed half of their allotted time before settling down to the problems of importance. A vast amount of time was squandered over the Churchill case, resulting in nothing more than a concurrent resolution directing the Governor to cause suit to be brought against Thomas J. Churchill and his bondsmen.[26] Even less justified was the appointment of a committee to look into charges that W. R. Miller, while Governor, had paid out money for clerk hire not authorized. This committee made a majority report recommending that Miller pay the State three hundred dollars immediately and a minority report to exonerate Miller of all fraud. When the latter report was adopted the effort to reflect on Miller was set at rest.

Much of the legislative output of the session had distinct significance. The Fishback Amendment was resubmitted to the electorate. The finance board was discontinued, and the State treasurer made the fiscal agent of the State to perform the duties left incomplete by the dissolution of that board. Provision was made for a revision and digest of the laws of the State, the laws regulating the labor system were modified, and a stringent law was enacted to prevent the sale, use or circulation of obscene literature. Reflecting the popular feeling against monopolies were various propositions to regulate rates, free passes, Sunday services and employer and property liabilities of railroads. A board of railroad commissioners consisting of the Governor, the Secretary of State and the Auditor was created and required to ascertain the value of all railroad property in the State. Dealing in futures was made a misdemeanor punishable by fine of from two hundred fifty to five hundred dollars. The law regulating the sale of ardent spirits was changed in the direction of higher licenses. Appropriations reached a total of $924,845.03, that for printing and binding alone $67,873.08, while the Industrial University received but $26,933.33. An appropriation of $744.67 was made

25. *Arkansas Democrat*, January 13, 1883.
26. *House Journal*, 1883, 387, 969.

to print the report of the State Board of Health, but no provision was made to maintain that work.[27] The plight of the people in the districts which had suffered overflows in 1881 and 1882, and were facing what promised to be a still greater one in 1883, provoked the statesmen to good works. The House of Representatives appointed J. A. Meek, J. G. B. Simms and H. P. Rogers a commission to visit the afflicted communities and study the situation first hand. The commissioners and Mr. Thane, of the Senate, found in ten of the counties along the Mississippi and the lower Arkansas rivers enormous losses of property, much suffering and increasing discontent among the poor classes. The planters were reported as trying to cope with the situation, but the visitors recommended that the State extend relief to the extent of remission of taxes for a year. However, nothing of a substantial nature was done beyond extending the time for paying the taxes of 1882 one full year.

Too much time was devoted to measures of local interest,[28] and apparently the two Houses were deadlocked too frequently to secure the best results. The "Arkansas Democrat" thought the Governor had little influence with the lawmakers, that there was entirely too much inattention to legislative duties, and too many "incapables" in both Houses. It was charged that the members were thinking too much of "self and glory" and of "purifying the grand old party."[29] But a General Assembly which turned out 139 public acts, 10 private acts, 18 concurrent resolutions, 5 joint resolutions, and 1 memorial must have had considerable harmony between the two Houses, as well as between the Legislature and the Executive.

As soon as the General Assembly was out of the way political interests assumed a distinctly quieter aspect, and Berry was able to remove some troublesome questions from the field of party concern. The last Legislature had appropriated $5,000 for the employment of counsel to assist the Attorney-General in prosecuting the defaulters, Churchill and Crawford. The Governor employed eminent lawyers for the cases and secured judgment for $9,922.09 against Crawford and that amount was paid the State. The Churchill defendants, through the law's delays, succeeded in keeping off a final settlement to the very end of Berry's administration.

The failure of the Legislature to make provision for continuing the State Board of Health left to the Governor the problem of protecting the public health. Berry appointed health commissioners to compile data, coördinate the work of volunteer agencies, and coöperate with the regularly constituted boards of health in other states. Dr. J. A. Dibrell, one of the most eminent physicians in the State, from sheer public interest and professional pride, directed the work. At his own expense he visited

27. *Arkansas Democrat,* May 24, 1883.
28. *Arkansas Democrat,* February 5, 1883.
29. *Arkansas Democrat,* April 6, 12, 1883.



BIRD'S-EYE VIEW OF STUTTGART, BUSINESS AND RESIDENCE SECTION

conventions, conducted an enormous correspondence, advised fully with physicians and peace officers and volunteer workers throughout the State, and tried to convince the politicians of the necessity of making provision for such work. When the work was finished the Governor urgently recommended reimbursement for the doctor, but the lawmakers proved unable to do justice in the case.

In the matter of properly exhibiting the resources of the state at the Louisville Exposition the politicians did but slightly better. In order to encourage immigration and capital the sum of $750 was appropriated to be disbursed on the order of the Governor. Charles Wallace had already begun preparations for such an exhibit and Berry carried out the work. He appointed a commission consisting of Dr. C. M. Taylor, Dr. J. M. Keller, S. R. Cockrill, S. H. Nowlin, T. W. Baird, J. M. Hewitt, John C. Calhoun, and G. W. Wooten to raise supplementary funds and direct the exhibit. The commissioner raised about $3,000 by private subscription, realized a highly creditable display, and placed the resources of the State before the country.

Perhaps the most delicate problem to require solution at Berry's hands was a near race riot in Howard County. It was alleged by negroes that one Wyatt, a white man, had assaulted one of their race. About fifty representatives of the race, deciding to kill or chastise the assailant, proceeded in the full light of day to visit him while working in a field. As the group approached Wyatt opened fire, killing one of their number, and was in turn riddled with bullets as he was running to cover. The countryside was stirred as only a race conflict could stir a typical agricultural Southern community in the 'eighties, and the local authorities felt unequal to the preservation of order. The Governor acted promptly, energetically and effectively. The civil authorities were assured of ample support and encouraged to act promptly. In a short time forty-odd of the colored men were indicted, thirty of them pleaded guilty to murder in the second degree, ten cases were dropped, three men were sentenced to hang, and the remainder were sent to the penitentiary. Of those condemned to hang two secured new trials and Berry pardoned five of those sent to the penitentiary. The majesty of the law had been upheld, no militia had been called out, the mob spirit had been curbed, and the Governor had made good his promise of equal justice to all classes of citizens. The outcome strengthened the party in power with the best element of the colored population and deepened the conviction of the people that a prompt and just enforcement of the law would obviate a resort to the militia in such cases.

Of keen political interests to the masses was the work of the railroad commissioners. Taxes were considered heavy, and a deep conviction pervaded the community that the railroads were evading their just share

of the public burden. In June, 1883, the commissioners, appointed by the Legislature at its recent session, organized and proceeded to appraise the railroad property of the State for taxation. While engaged in that work the St. Louis, Iron Mountain and Southern Railroad secured from the Pulaski Chancery Court an injunction on the grounds that the law authorizing such evaluation and taxation violated the exemption rights of their charter. When the injunction was dissolved the Memphis and Little Rock Railroad joined in the case in Chancery Court. Governor Berry, determined to give the law a thorough test, employed Judge U. M. Rose to assist the Attorney-General in conducting the case in Chancery Court and the State won its case. The railroads appealed the case to the State Supreme Court and lost, and then to the Supreme Court of the United States, where they lost again. The right of the State to tax such property having been established the board completed its valuation and in the last year of Berry's term assessed the roads at $6,352,985.[30] The conclusion of this case whetted the appetite for greater revenue from the railroads, and a demand arose for back taxes from that source.

From March, 1883, to September of the following year, the Fishback Amendment troubled the political waters. To be sure, the Democracy was committeed to a fair submission of it to the electorate, but the Shaver Resolution left individuals free to fight it until the sovereign people had rendered their decision. A respectable minority in the party loathed repudiation and even at the tremendous risk of causing internal discord fought valiantly to avoid it. But by the time the voting took place only an insignificant vote was case against the proposition.[31]

Long before the first year of Berry's term had expired State politics began to warm up. Governor Berry announced that he would not be a candidate for a second term, because the salary was inadequate, and left the field open for contest. Aspirants to Gubernatorial honors made their formal announcements and began campaigning early. General S. P. Hughes and Colonel John G. Fletcher convassed the State thoroughly and in joint debate raised public interest to fever heat.[32] Several other candidates were announced, but the pre-convention activities made it increasingly clear that the race was between Hughes and Fletcher and that neither had a safe margin of support.

On March 12 the Democratic State Executive Committee issued a call for the State convention to meet at Little Rock on June 25 and changed the basis of representation to one delegate for every four hundred Democratic votes, or major fraction thereof, cast for Governor in 1882. Hot Springs made a strong effort to secure the convention, but was defeated by the capital city by nine to six votes. The central committee declared

30. Publications of the Arkansas Historical Association, Vol. III, 279-80. Memphis L. R. Rwy Co. *v.* Berrry; St. L., I. M. & S. Rwy Co. *v.* Berry, 41 Ark., 436, 509, 112 U. S., 609.
31. Herndon, I, 332.
32. *Weekly Gazette,* May 8, 15, 1884.

that seats would be provided for only properly certificated delegates, notified the counties to designate before June 25 their proxies, and exhorted local Democratic committees to reorganize for the Congressional canvass ahead.

At the Grand Opera House in Little Rock the delegates assembled at noon on the day appointed and were called to order by Col. S. L. Griffith, chairman of the State Central Committee. Thomas C. McRae defeated B. R. Davidson for temporary chairman by one hundred and twenty-nine to eighty-six, and on recommendation of the Committee on Permanent Organization, was made permanent chairman. The stage was carefully set. County delegations were seated by arrangement of Mr. J. E. Williams, secretary of the Central Committee, much on the fashion of a national convention. Mr. McRae on taking the chair delivered a speech in which he predicted that the approaching national election would be the greatest in the history of the country and largely on the question of protection. He appealed to his fellow-Democrats to keep the party committed to efficient government honestly administered, to encourage immigration, to foster the free school system, and maintain harmony and good temper in the convention and throughout the campaign.

Only one contest over seats came before the Credentials Committee, and that body's decision in the single case suggested that the atmosphere was getting right for a warm contest. Without a dissenting voice the convention accepted the committee's report that Gen. J. F. Fagan, Col. Humphreys, Sam Frauenthal, and J. P. Wilkins be seated from Cleburne County and given one-half vote each. By the time this contest was settled the friends of Hughes and Fletcher were demanding that the convention proceed immediately to the nomination of a candidate for Governor. Both groups were confident of their staying qualities, but knew that neither could secure the nomination on an early vote. On the first fourteen ballots Fletcher led Hughes by approximately ten votes, with no other candidates receiving so much as this margin. After an adjournment the balloting was carried to the thirty-second without material changes, when something happened without leaving dependable trace of its character. On that trial Fletcher received 104, Hughes 97, Frolich 8, and Berry 2 votes, and before the results could be regularly announced Bradley County changed from Hughes to Fletcher, starting a movement which gave Fletcher 112 votes, or enough to nominate him. But when Bradley changed, Franklin, Lincoln, Sevier, Union and Van Buren flopped back to Hughes and before the results were announced General H. King White moved to make Hughes' nomination unanimous, but the chair ruled him out of order. Before another could get the floor General White secured a suspension of the rules, withdrew Fletcher's name, and Hughes was nominated without ever announcing the last ballot.

The first five planks of the platform were devoted to a statement of general Democratic principles, the sixth endorsed equal taxation, a free ballot, and strict accountability of all public officers, and the eighth approved the resubmission of the Fishback Amendment by the last Legislature. Other planks called for legislation to foster manufactures, immigration, railroads, and education. They recorded the party as opposed to all forms of discrimination in commerce and declared all powers granted to corporations subject to the regulating power of the people.[33] The State Central Committee at once issued a campaign address to keep the issue before the public.

On April 10 the Republicans assembled in convention at the Capital Theatre at Little Rock. The attendance was unusually large and the delegates very enthusiastic. On the evening of the 9th a caucus had decided that J. Pennoyer Jones, colored, should be temporary chairman; but when nominations for temporary officers were made John H. Johnson received the honor which Jones was expecting. Before action was taken on the matter Jones from the convention floor stated the action of the caucus, but declared his willingness to accept Johnson to prevent a conflict in the party. From that unhappy beginning the convention had rough but sure sailing. The Clayton faction was in control. In the permanent organization S. W. Mallory was chairman; J. L. Jones, A. G. Gratton and F. B. Ford vice-presidents, and L. C. Young secretary.

Stubborn protest against the dictation of the Clayton group was pronounced throughout the deliberations. An effort to elect J. H. Johnson, colored, to the chairmanship over Mallory was defeated overwhelmingly, but to placate the colored element the State Central Committee was increased to forty-two with equal representation of whites and blacks. Reflecting the opposition to Powell Clayton's dictatorship was a resolution that the Federal patronage in states having no Republican representation as Washington be made on the recommendation of the local party committees. The proposition received scant attention, and the controlling group with "cheers and laughter" voted thanks to the chairman for presiding so ably. In lieu of a platform they simply endorsed President Arthur's administration and authorized the State Central Committee to put a full State ticket in the field.

On the whole this was the best ticket the Republicans could have named. Of the nominees only Boles recalled the Reconstruction regime, and he was not considered responsible for the radicalism of that period. Jacob Trieber, a rising young attorney of marked ability and high personal and professional standing, as candidate for Attorney-General gave positive dignity to the group.

The canvass following the conventions developed little interest, except for its connection with the Presidential race. Hughes, on July 30,

33. *Weekly Gazette,* June 26, 1884.

at Des Arc, speaking to an audience of three thousand, expounded the principles of Democracy, State and national, leaving not an issue untouched.[34] With factions happily burying their differences and with the proposed amendment growing in favor, Democratic speakers devoted their energies to reviewing Republican corruption and extravagance under Clayton and Hadley and to attacking the policy of protection to industry as a gross injustice to the consuming public, especially those in agricultural sections. The campaign was conducted on a higher plane than in similar contests since 1868. Without hope of gaining control of the State government, and held together largely by the organization whose directing spirits awarded or enjoyed the Federal patronage when their party controlled the Presidency and Senate, Arkansas Republicans confined their major activities to keeping their party machinery in excellent order to make a showing in the November elections. The new Executive Committee, headed by ex-Governor Clayton and reorganized to afford fairer representation of the several elements of the party, directed every step through the campaign.

At the election of Governor on September 1, Hughes received 100,891 votes to 55,394 for Boles, with fewer than 200 votes cast for other individuals.[35] The vote on the proposed constitutional amendment was 104,314 in a total vote of 135,298 on the proposition. The other Democratic candidates received majorities corresponding to that of Hughes. It was a clear victory for the Democracy and a triumph for repudiation and, despite their campaign declarations against the amendment, the Republicans were as strong for repudiation as were the Democrats.[36]

After the State election party activities were shifted almost wholly to the several Congressional races, where in most cases the candidates of both parties canvassed their respective districts in speaking tours of unusual excitement. But here, as in the State contest, the issues and interests involved in the Presidential race took first place. After a two months' appeal, the Democrats realized a signal victory, electing Poindexter Dunn, C. R. Breckinridge, James K. Jones, John H. Rogers and Sam W. Peel to the House of Representatives. At the same time the Democrats won the Presidential election, and Berry's gubernatorial term drifted to a peaceful close.

34. *Weekly Gazette,* August 14, 1884.
35. *House Journal,* 1885, 46.
36. *House Journal,* 1885, 46 *et seq.*

CHAPTER XXII.

HUGHES DEMOCRACY AND ORGANIZED PROTEST.

The regular session of the general assembly met and organized on January 12, 1885. On the fifth ballot James P. Eagle was elected Speaker of the House and R. B. Weaver President of the Senate. Before the minor officers were elected the two houses met in joint session on the second day and heard Governor Berry's message read by his private secretary, W. H. Langford. Two days later Hughes was inaugurated and delivered a message to the joint session. The new Governor recommended provision for interest on the just debt of the State, liberal provision for State institutions, more buildings for the Institute for the Blind, the holding of State and Congressional elections on the same day, the establishment of a State weather service, the adjustment of title claims to swamp lands, encouragement of the free public schools, the establishment of a bureau of agriculture, manufactures and mining, and protection of fish and game.

Two problems were of major importance to the legislators; provision for the undisputed debt, and proper regulation and taxation of railroads. While the impression was abroad that the personnel of the lawmaking bodies was far superior to that of 1883, an occasional voice called for a new leadership capable of meeting the new issues of the day.[1]

In joint session the vote on the Fishback amendment was duly canvassed and the proposition declared adopted by a majority of the electors voting at the election.[2] With the levee bonds, the railroad aid bonds, and the Holford bonds eliminated, attention was centered on providing for placing the undisputed debt on a sound basis. The chief measure in settling that difficulty was the creation of a State Debt Board consisting of the Governor, Auditor, Treasurer, and the Attorney-General to call in, examine and register the bonds outstanding, and report the results to the next session of the General Assembly. Railroads and railroad practices received ample consideration. On any proposition looking to the regulation or taxation of those corporations a large and sensitive minority showed distinct fear that such legislation might retard the material development of the State. Out of twenty-eight propositions bearing on railroad interests and practices came acts regulating the collection of freight bills, providing for the speedy settlement of claims for stock killed, and declaring forfeited charters of roads not completed or under construction. The name of Dorsey County was changed to that of Cleveland, a law was

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1. *Southern Standard,* February 14, 1885. *Weekly Gazette,* February 26, 1885.
2. *House Journal,* 1885, 50.

passed for the government of cities and towns, the territorial jurisdiction of the Pulaski Chancery Court was reduced, and a closed season defined on wild game. Twenty-five separate acts were passed affecting the terms, organization, or jursidiction of courts of different grades. Sunday base-ball by any club or persons was prohibited, the sale of oleomargerine as butter was made illegal, and the adoption of heirs regulated. A general property tax levy of four mills was made—two mills for State purposes, and two mills for the support of public schools. For additional support to the public schools a per capita tax of one dollar was levied annually on every male inhabitant of twenty-one years of age.

A commission was created and an appropriation of $30,000 made to improve the State House. Additional buildings were provided for the Lunatic Asylum, the penitentiary, the School for the Blind, and the Deaf Mute Institute. The sum of $5,000 was appropriated to defray the expenses of the Arkansas exhibit at the New Orleans Exposition. The total appropriations reached $461,354.08. Of that sum $135,196 went to the insane asylum, $75,000 to the penitentiary, $69,920 to the Deaf Mute Institute, $67,398.50 to the School for the Blind, and $31,000 to the Industrial University. These meager outlays may be accounted for by the fact that the representatives of the people were committed to economy and retrenchment.

A joint resolution memorialized Congress to refund the cotton tax paid into the Federal Treasury; Congress was also asked to provide part of the funds required to drain the sunken lands in Southeast Missouri and Northeast Arkansas. T. V. Powderly, general master workman of the Knights of Labor, was received and heard in his lecture on the economic and labor situation in the United States. An act was passed to facilitate the adjustment of differences arising between the Federal Government and Arkansas over grants of swamp and overflowed lands by the United States in 1850.

It fell to this Legislature to elect two United States senators. Senator J. D. Walker's term would expire on March 4, 1885, and a number of prominent men planned to succeed him, among them B. T. DuVal, Poindexter Dunn, Governor Berry, James K. Jones, and William Fishback. Only Dunn, Jones and Berry developed formidable strength. On the first ballot taken by the houses separately the vote was: Dunn 41, Berry 33, Jones 32, Ferd Havis (Republican) 10, DuVal 4, with eleven votes scattered among four others. No one having received a majority, the two houses in joint session began balloting. On the first joint ballot Dunn received 41, Berry 36, Jones 32. No very great changes occurred until the joint session met for the thirtieth ballot. At that point Berry withdrew and Jones received 72 votes to 49 for Dunn, with but 63 necessary for election.[3] Some of Dunn's friends attempted to spread a rumor

3. *House Journal*, 1885, 132, 270.

of bribery, but nobody believed that Colonel Dunn was a party to such rumors, and it was dropped.[4]

Berry's withdrawal was wisely timed. March 6 Governor Hughes notified the general assembly that Senator Garland had accepted the office of Attorney-General in President Cleveland's cabinet. This situation had been expected for two months, and the aspirants had their hosts arrayed. Eight days after notification by the Governor that Garland's cabinet appointment had been confirmed by the Senate, the two houses balloted separately on his successor. On the first ballot Berry led Dunn by two votes. He managed to keep the lead and on reaching the fifth ballot without material change Dunn withdrew and Berry received 79 votes, or eighteen more than necessary for election. The contest had been heated, but the public felt that the election was clean and that Berry had reaped a just reward for his withdrawal at the previous contest. It being a matter of typical politics of the eighties, the people soon forgot the sharp practices displayed and the time squandered, and remembered that out of the two elections Arkansas had sent two men of substantial ability and sterling integrity to the United States Senate. When the session was over, an unsympathetic editor declared that the worthwhile work of the lawmakers was embodied in four acts: the election of Jones to the Senate, the election of Berry as Garland's successor, the enactment of a hundred thirty-six general acts, and adjournment,—all at the cost of $2,000 per members.[5]

Throughout the session of the General Assembly Governor Hughes kept in sympathetic touch with the legislators, and after they adjourned little occurred to excite party activities except a whirlwind contest between Thomas C. McRae, the regular Democratic nominee, and Judge C. E. Mitchell, an independent candidate, for the vacancy in the House caused by the advancement of James K. Jones to the United States Senate. Mitchell's race was essentially a protest against the economic burdens of the agricultural classes and ring rule in the conventions of the Democratic party. But in the face of danger to Democratic supremacy, all elements of that party rallied to McRae, and with the help of Senator Jones rolled up a majority of more than 4,000 against Mitchell. When the votes of September 7 were counted one Democratic journal declared Judge Mitchell politically buried.

Of more significance, but of less immediate party concern, was the election of a successor to Judge Eakin of the State Supreme Court. At the State convention in Little Rock on October 22, 1885, B. B. Battle was nominated over John M. Pittman on the first ballot. Battle's election was easily accomplished, and politics quieted down until the early spring of 1886.

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4. *Weekly Gazette*, March 26, 1885.
5. *Southern Standard*, April 11, 1885.

Hughes' administration of affairs was so evidently satisfactory that Democratic party leaders, confident that there would be no serious contests within their own ranks, were concerned with developments in the agricultural society known as the Wheel and with the possibility of a fusion of Wheelers and Republicans.

Pursuant to the call of the Democratic State Central Committee the State convention met at Little Rock June 30, and never before had a State convention attracted so many spectators. At high noon in Hyde's Theater, John M. Moore called the body to order and nominated John M. Hewitt for chairman. Sam L. Black and B. B. Chism were nominated from the convention floor. When, on the first ballot by counties, it appeared that Black had enough votes to elect him, Chism's name was withdrawn and John M. Hewitt was elected chairman, and P. L. Strickland and T. C. May elected secretaries.

The Wheelers and Republicans had taken advanced ground on the temperance question, and now the W. C. T. U. asked the Democrats to nominate only such men as believed in prohibition and the enforcement of the laws regulating the liquor traffic. The proposition was tabled, but a resolution endorsing Gladstone's home rule policy was passed with relish. A resolution to adopt the so-called Wheel platform was offered, read, and withdrawn amidst laughter. A resolution declaring it the duty of the Legislature to sustain the Industrial University brought on such a sharp debate that it was withdrawn. Having eliminated every proposition calculated to divide the party, the platform was easily adopted. It recounted the peace and prosperity attending Democratic rule, endorsed the National Democratic administration, attributed the economic depression of the farmers and the difficulties between labor and capital to the protective tariff, and demanded the unlimited coinage of silver. The party was committed to an unequivocal opposition to monopolies, payment of the State debt as speedily as possible under reasonable taxation, equal protection of all citizens, strict accountability of all public officials, a pure ballot, liberal encouragement to immigration, the establishment of a bureau of agricultural and labor statistics, support of education, encouragement to railroad construction, regulation of freight and passenger rates, and heavy penalties for discriminations between persons, localties and commodities.

Before the platform was reported Hughes was nominated for a second term by acclamation amid uproarious applause. Immediately S. B. Moore, William E. Woodruff, Jr., and Dan W. Jones were nominated by acclamation for reëlection as Secretary of State, Treasurer, and Attorney-General. At this stage of the proceedings Governor Hughes appeared and delivered his acceptance speech, reviewing the progress made by the State since the Republicans were ousted. When they resumed the task

of nominating candidates, Judge W. E. Atkinson in an earnest speech nominated A. W. Files for a second term as Auditor. At this juncture ex-Governor W. R. Miller was nominated for Auditor, and Files was doomed. Miller's candidacy, while not secret, had been managed adroitly, and on the first ballot the vote stood: Miller 133½ to Files 114½. When that vote was announced it was greeted with tremendous applause. Files believed himself due another term and his disappointment was keen. He was assured that he had performed his official duties satisfactorily and reminded that it was no reflection on him for the people to prefer Miller for Auditor.[6]

The convention season had already been opened by a meeting of the Agricultural Wheel in the hall of the House of Representatives at Little Rock June 9. Isaac McCracken, president of the Wheel, called the meeting to order and stated its purposes to be the nomination of a full State ticket. Isom Langley was chosen secretary. When a motion was made to elect McCracken president of the convention, a delegate objected on the ground that the gentleman presiding was a Wheel officer and the meeting a Wheel meeting, and it was folly to convert it into a convention to go into State politics. Several members declared the Wheel a non-political organization, claimed they were instructed to keep clear of politics, and insinuated that the movement to go into politics was designed to injure the Democratic party. McCracken insisted that he was neither for nor against a State ticket. He denied that he had been attempting to combine the Republicans and Wheelers in opposition to the Democrats. "That's false," he said, "false as hell. I am a farmer." R. B. Mason, asserting that there was no hope of electing a Wheel ticket since there were only 40,000 Wheel members in the State and the local Wheel organization in fifteen counties had already ignored the political movement within the brotherhood, plunged into eulogy of Governor Hughes and the other Democratic State officers. That statement was followed by solemn warnings that a considerable number of delegates would leave the convention, if a decision was reached to enter politics.

The political Wheelers, however, had a clear majority and did not enter into a discussion of the propriety of becoming a political party. Apparently their plans had been fully matured before they gathered at Little Rock. As the wrangle proceeded one gentleman declared he had not joined the Wheel in order to "stab the Democratic party." The time had arrived for a decision, and the resolution to nominate a full ticket passed 47 to 30. As soon as the vote was taken, the bolters began to retire, and as they withdrew, reaffirmed their allegiance to the Democratic party or lamented the demise of the Wheel.

A platform of twenty-two planks, reminiscent of the Grange and

6. Arkansas Daily *Democrat*, June 30, July 1, 1886.

prophetic of the Populist, was adopted without division. But it proved more difficult to secure nominations that would stick. Colonel John G. Fletcher was nominated for Governor, was notified in due form, visited the assemblage and accepted the honor, but the next day declined the place. Colonel George Thornburg declined and Hon. W. P. Grace also declined positions on the ticket. The same thing happened with every nominee chosen by the rump convention.[7] Later, and after the National Wheel meeting of July 28 at Litchfield, Arkansas, had declined to consider the matter of a State political ticket, McCracken's faction put out an incomplete ticket headed by Charles S. Cunningham for Governor.[8]

The Republicans opened their State convention July 28 in Hyde's Theater at Little Rock at 1:30 p. m. J. Pennoyer Jones immediately began a fight to overthrow Powell Clayton. Triumphant over Jones and his thirty-seven adherents, Clayton called the convention to order. In a crisp little speech he expressed joy at the solidarity prevailing in the party and declared the Republicans valiant friends of labor. On his nomination Stephen Wheeler was elected temporary chairman and delivered a scathing denunciation of the Democratic party. Though Clayton boasted the most representative convention the party had held in Arkansas, there were thirteen counties without representatives in the body.[9]

It was particularly gratifying to the ex-Governor that his party maintained such a vigorous spirit and effective organization without holding any State offices. The fact that the credentials were prepared and reported by Henry M. Cooper alone appeared to pass without notice.

A committee of eight, with Jacob Trieber as chairman, reported a platform, reviewing the achievements of the National Republican party, endorsing the protective tariff, condemning Cleveland's liberal use of the veto power, claiming the public domain for actual settlers, and denouncing the party in power for permitting convict labor to be used in competition with free labor and for not punishing corruption in high official station. The platform demanded that laborers and mechanics be protected; that felons be confined within the walls of the penitentiary; that the county convict lease system be abolished; that the mortgaging of crops not planted be not valid; that home industries be encouraged; that a railroad commission be created; that the State and national elections be consolidated; that the road law be amended in the line of a more equitable division of the public burden between capital and labor; that the assessment of property for taxation be made by township assessors; and that a reasonable amount of personal property be exempted from taxation. To these were added a resolution favoring the submission of a constitutional amendment to prohibit the manufacture or sale of alcoholic

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7. *Weekly Arkansas Gazette*, June 10, 1886.
8. *Weekly Arkansas Gazette*, August 12, 1886.
9. Calhoun, Ashley, Clark, Cleburne, Cleveland, Grant, Independence, Izard, Mississippi, Montgomery, Pike, Stone, and Yell.

liquors in the State and an expression of sympathy for the struggle the Irish were making for liberty. The platform was adopted without opposition.

In nominating candidates the delegates did honor to their party. For Governor Judge Lafayette Gregg defeated Judge Gibson by 140 to 17. The rest of the ticket was of high order. The editor of the "Gazette" said of the ticket: "Nearly all the nominees are well known and enjoy a widespread personal popularity, and are recognized as men of capacity."[10]

The last of the conventions was over but little more than a month before the election, and the canvass was brisk. Since all negotiations looking to a fusion of Republicans and Wheelers had failed and neither the Democrats nor Republicans feared a considerable defection to the Wheelers the contest was on a high plane. Leaders of the Democratic hosts planned their movements on the belief that the prime movers among the Wheelers were Democrats "with a grievance." The temperance leaders sought to commit all parties to advanced positions on the prohibition issue and each party claimed to be especially sympathetic with labor. Cunningham's campaign consisted very largely of an address which he published, claiming to have been duly nominated by a committee of the Wheel as "a labor candidate." Hughes and Gregg engaged in a number of joint debates of a high type, raising party politics to a distinctly higher level in the State. Just before the election the Democratic Labor Club held a grand rally, at which Governor Hughes, Senator Jones and other celebrities addressed the multitude.

On September 6 the votes were cast, the Democrats making a clean sweep. The total vote of 163,782 exceeded the vote of 1884 by only 6,391. Hughes received 90,649 or 9,322 below his vote of 1884, and Gregg received 54,064 or 1,772 fewer than were cast for the Republican candidate at the last election. Cunningham's 19,069 votes reflected a mild protest against Democratic rule and lack of confidence in the Republicans, and it would seem that he drew more largely from the Democrats than the Republicans. On November 2, Poindexter Dunn, C. R. Breckinridge, T. C. McRae, J. H. Rogers and S. W. Peel—all Democrats—were elected to Congress. In local and county contests the Wheelers supported straight out tickets of their own or fused with the old Greenbackers or Republicans. When the Congressional elections were over the Democrats felt that they had won by a narrow margin and because a majority of the discontented had faith that the party in power could be relied on to provide the relief demanded by the farmer and the laboring man.

After his reëlection Governor Hughes was exceedingly popular. There was scarcely a criticism of his policies as his first term drew to a peaceful

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10. *Weekly Arkansas Gazette,* July 29, 1886.

close. With public interest centered on the approaching General Assembly, the twenty-sixth biennial session of that body opened January 10 and adjourned March 21, 1887. After a contest of sensational interest John M. Hewitt was elected Speaker of the House on the twenty-first ballot, and D. E. Barker was chosen President of the Senate. On the fifth day after organization Hughes and the other State officers were inaugurated with simple ceremonies.

In his inaugural address, or more correctly message, to the General Assembly on the state of the Commonwealth, the Governor reviewed public affairs during the past two years. In that period, he said, the State had escaped calamities, pestilence, and famine; had enjoyed peace, order and industrial growth; and was enjoying "a fair degree of plenty and prosperity." As evidences of progress he cited the large increase in wealth and population; the improved condition of the public finances; improvement in the number and quality of the public buildings; increases in the area of cultivated lands, in means of transportation, in taxable values, and in public school facilities. Within the last fiscal year the revenues from all sources had reached $1,837,710 and the taxable values in the State amounted to $140,000,000. The assessed value of railroad property alone had increased by $7,351,653.65 within the last two years. And, though the rate of taxation had been reduced by three mills in 1885, the State had been able to meet all of its obligations without borrowing. Moreover, substantial improvements and additional buildings had been provided for the institutions of the State. These expenditures, coupled with the fact that there was a considerable balance in the treasury, constituted reasonable assurance for the immediate future.

Immediately after the reëlection of Hughes, the "Arkansas Democrat" asserted that in politics the State was facing a crisis; that the Democratic party's majority was so narrow as to constitute a clear warning to fulfill its promises; and that the liberal "intendments" of the platform were binding.[11] This party paper thought, however, little more was needed. The Legislature was advised to leave the revenue law alone, call a constitutional convention or submit three amendments, enact a road law, establish a bureau of agriculture, enact an anti-free pass law, and regulate the employment of county convicts. The Governor did not speak with such definiteness as did the editor. For the consideration of the legislators he made few specific recommendations. For services rendered while the State was without a State Board of Health he asked that an appropriation be made to pay Dr. Dibrell. He thought provision should be made to collect back taxes from railroad companies, that county courts should be required to levy a tax of one to two mills for work on the public roads, and that appropriations be made to keep the militia in condition to assist

11. *Arkansas Democrat*, September 20, 1886.

in the preservation of order in case the civil authorities found themselves unequal to that task. He recommended that pressure be brought on the Federal government to return the money paid by the State on account of the cotton tax.

While a major portion of the output of the legislative session was of local interest only and related in no way to the issues on which the members were elected, the leading measures of primary importance reflected the economic grievances of the farming class. Judging from the petitions received the lawmakers should have felt adequately informed of the popular interest in education and temperance as well as in the material well being of the community.

There appeared in the House striking evidence of a growing popular interest in temperance. Here numerous bills to regulate or prohibit the liquor traffic were introduced. Eighteen measures were passed to restrict the sale of ardent spirits within as many localities. Another act prohibited saloonkeepers permitting minors playing cards or other games in their establishments. A State tax of fifty dollars and a county tax of one hundred dollars were placed on each wholesale dealer in malt liquors. A law to protect the Christian Sabbath provided that no store or saloon be kept open on that day, and that persons who observed another day of the week as the Sabbath should not disturb any religious congregation by their vocational activities. A bill proposing in the interest of the poor that butcher and baker shops be permitted to remain open until ten a. m. Sundays passed both houses, was met by a vigorous veto from the Governor, passed again in the Senate, and failed in the House.

The question of holding a constitutional convention was submitted to the electorate at the next general election; provision was made for a State geological survey; an act passed to regulate weights and measures; and the Industrial University reorganized. A State debt board was created to superintend the settlement of the undisputed indebtedness of the State in a manner prescribed by law. A measure for adjusting the obligations growing out of the failure of the Real Estate and the State banks, two institutions of the ante-bellum period and framed by a joint committee, appropriated $600,000 for the purchase of bonds specified in the act.

In response to a strong popular demand corporations received considerable attention. A rigid law provided for the collection of over due taxes from corporations. Conditions were prescribed on which foreign corporations might do business in the State. It was made illegal for a railroad or other carrier to grant a free pass to a State official; city councils were empowered to require the building of depots under certain conditions; foreign corporations were forbidden to build railroads in the State; discriminations, exorbitant charges and single control of competing lines were prohibited; and passenger rates were regulated. It was

required by law that in case a plaintiff against a railroad company for the violation of any law regulating the transportation of freight or passengers should win his case, he should be allowed a reasonable attorney's fee "to be taxed up as a part of the costs" and so collected. The most substantial work affecting the railroad interests, however, was the adjustment of claims against the St. Louis, Iron Mountain and Southern Railway Company for back taxes. That company through its attorney, B. C. Brown, offered to pay the State $250,000 in the full and complete discharge of every tax obligation to the State incurred by the company since 1883. In a special message the Governor recommended its acceptance, and a bill to that effect became law on February 21, 1887.

No progressive road law was enacted; no system provided for handling of county convicts; no bureau of agriculture established; no provision made for maintenance of the militia. But the people were satisfied with the work of their servants. The House had not shown leadership or ability of a high quality, but the Senate through its members of distinct ability and its leadership had avoided many blunders.

When Hughes addressed the General Assembly of 1887 he stated that the only disturbance to the public since he became Governor had occurred at Texarkana in April, 1886. At that time on account of activities of strikers on the St. Louis, Iron Mountain and Southern Railroad, he ordered Captain John H. Trigg, of the local "Gate City Guards," to prevent rioting. This he considered considerably short of using the militia. He had made an excellent chief executive and aspired to a third term. After the adjournment of the legislature in 1887 his attention was turned more and more to the promotion of his third-term candidacy. After he failed of the nomination by the State convention his remaining months passed quietly away.

In midsummer of 1887 the Democrats renewed their warfare on the third party movements, the "Weekly Gazette" declaring that the demagogues who flattered themselves that they had found a proper refuge in the Union Labor party had plenty of time to revive the old fraud for the campaign of 1888.[12] Before the year closed it was announced that James P. Eagle and John G. Fletcher would enter the race for Governor, and early in February, 1888, William Fishback announced. Friends of R. H. Crockett kept his name prominently to the front. Governor Hughes was slow in making it known whether he would run for a third term or enter the race for the United States Senate. Fletcher's friends were demanding his nomination now as atonement for the deal they received when Hughes was first nominated, but the attitude of their candidate towards the Wheelers in 1886 weakened his claims. For the first time

12. *Weekly Gazette*, August 25, 1887.

the Farmers' Alliance was being mentioned as a possible factor in the approaching contest. The temperance people still hoped to commit all candidates and parties to their program. Interest was quickened in immigration and all candidates favored its promotion. Early in January, 1888, Governor Hughes called an immigration convention to meet at Little Rock on January 31. On that date there assembled a thoroughly representative body of business and professional men; policies and measures were discussed; an immigration bureau established; and the public called on for $50,000 to defray expenses of a vigorous immigration movement.

The Republican State Central Committee called a State convention for the second Tuesday in April at Little Rock. The Democratic State Central Committee, after a warm contest between Hot Springs and Little Rock for the convention, finally selected the latter and fixed the date for May 31. Representation was based on one delegate for each two hundred votes cast for Governor in 1886.

The Union Labor Convention met in Little Rock on April 30. The meeting was called to order by R. B. CarlLee, and Isaac McCracken was elected chairman. The organization was completed by the election of W. N. White as secretary. A good portion of their deliberations was conducted in secret caucus where there was no newspaper reporter.

Scarcely any difference of opinion developed on the declaration of principles. As adopted the platform approved the Cincinnati resolves of their party and demanded the legislation called for by the Wheel, the National Alliance and the Knights of Labor. On strictly local issues it called for the taxation of lands held for speculation, the strict enforcement of the election laws, consolidation of State and National elections, working of State convicts within the penitentiary walls, a road tax and reduction of the number of days men should be required to work on the public roads, national aid for education, a better State system of public education, a law regulating the ventilation of mines, a bureau of labor and agriculture, and State regulation of trusts and other corporations.

It proved more difficult to nominate candidates for the State offices. The leaders in this group realized that their only hope of ousting the Democrats lay in the selection of candidates who would attract Wheelers, Republicans and disaffected Democrats. A formidable group in the convention demanded a straight full ticket of genuine Union Labor men, while a majority inclined to men on whom the different elements in opposition to the Democrats might agree. The outcome was something of a compromise. A committee composed of J. T. Wharton, O. S. Jones, John Russ, W. Garrett, W. J. Holden, G. B. Farmer and G. D. White was appointed to propose a State ticket. After careful deliberation the committee made a partial report, and the convention proceeded to act on



LOOKING SOUTH FROM MISSOURI PACIFIC HOSPITAL, LITTLE ROCK

each man proposed. C. M. Norwood was unanimously nominated for Governor. George W. Terry was named for Secretary of State, A. W. Bird for auditor, and W. J. Duvall, after having been mentioned for Chief Justice, was in secret caucus agreed on for Attorney-General. After Duvall's nomination the efforts to complete the ticket were discontinued and a committee was directed to complete the work and fill vacancies. This committee named A. F. Rice for Treasurer, R. P. Baker for Superintendent of Public Instruction and R. H. Morehead for Land Commissioner.[13]

The direction of the approaching campaign was entrusted to a large committee headed by O. S. Jones. It was agreed that they raise a campaign fund by assessing each county twenty dollars, and the representatives from eight counties immediately guaranteed one hundred sixty dollars. Over the problem of providing funds for the campaign the assembly showed its first bit of enthusiasm, but by the time that stage was reached the attendance had dwindled to a mere dozen delegates. At a delicate point a negro interrupted one of the speakers with an embarrassing inquiry as to the relation the Republicans were to have to the Union Labor ticket, but the questioner was gently ignored. It would be near the truth to say the convention played out rather than adjourned.

When May 31 arrived visiting Democrats were in Little Rock a thousand strong. For more than fifty days Governor Hughes, James P. Eagle, John G. Fletcher, William M. Fishback, and E. W. Rector had canvassed the State in spirited joint debate on the issues of the day. The Democratic State Central Committee invited all voters, regardless of their previous party affiliations, to participate in the Democratic primaries.[14] April 6 the "Fayetteville Democrat" made an attempt to state the position of each of the gubernatorial aspirants on railroads, education, pardons, immigration, management of the State Penitentiary, and the proposition of a new constitution. Hughes, the candidate of the office holders, was running for a third term on his record. Fletcher, the business men's candidate, was demanding economical and honest government, and his friends were claiming that nothing could atone for defrauding him out of the nomination in 1884 but his overwhelming victory in the approaching convention. Fishback based his claims on his long public record and his unbroken advocacy of justice to the taxpayer and the farmer. Eagle based his claims on his record in war and peace and his promise of honesty and efficiency in government.

Though an enthusiastic Fletcher supporter, the "Arkansas Democrat" insisted that no man's claims were as important as the interest of the

13. *Arkansas Democrat,* April 30, May 1, 1888.
14. *Arkansas Democrat,* March 23, 1888. The primary was then not an election by ballot, but only a mass meeting of voters and was held at different times in different counties.

party. Predicting that 1888 would witness the greatest party contest in the history of the State it emphasized the absolute necessity of an enthusiastic attempt to win back estranged Democrats in order to recover the party margin lost in 1886. But as the campaigning advanced enthusiasm for the party was overshadowed by partisan zeal for candidates. One Democrat was for Hughes, another for Fletcher, and their neighbor was for Eagle or Fishback. By May 23 practically all of the local and county primaries had been held and a vast majority of the delegates to the State convention had been instructed how to vote. In those local meetings men took their politics seriously and in many cases delegations were divided. During the last week before the convention assembled it was clear that Hughes was in the lead; but his organization, his third-term candidacy, and the fact that he was the beneficiary of the convention politics of 1884 made his ultimate nomination highly improbable. In fact, the contest was in a sense Hughes against the field.

For three days before the convention party leaders poured into Little Rock in greater numbers than had ever attended a similar meeting in the State. Around the Capitol Hotel a thousand visiting politicians milled all the forenoon of May 31. The night before the friends of each gubernatorial candidate had held a caucus till late hours, and on the following morning each group knew its approximate strength and stood determined on supporting its first choice until nominated or until a favorable chance to form a combination presented itself. A close observer declared that Hughes' friends constituted "the best organized, the best equipped, most resolute, enthusiastic and faithful following that ever surrounded a candidate."[15] A vast majority of the delegates committed to other candidates were set on defeating the Governor. These men were determined to prevent a repetition of the convention manipulations which, as they contended, had deprived John G. Fletcher of the nomination in 1884. To that end they watched carefully the organization of the convention when called to order by John M. Moore at high noon. Their plans called for a capable, masterful individual for chairman of the convention. In fact no faction opposed openly such a course, and consequently only men of that calibre were nominated for temporary chairman. For that office B. B. Hudgins defeated Carroll Armstrong 303 to 151 on the first ballot. J. E. Williams was made secretary and the temporary organization made permanent. The short, sharp contest for the chairmanship and the keynote speech gave promise of a dramatic convention and a hard party struggle to follow.

It was decided to proceed directly to the nomination of a State ticket. The contests for secondary places on the ticket moved off harmoniously. By acclamation they selected S. R. Cockrill for Chief Justice, W. E.

15. *Arkansas Democrat,* June 6, 1888.

Woodruff, Jr., for Treasurer, and W. E. Atkinson for Attorney-General. B. B. Chism defeated E. B. Moore for Secretary of State on the second ballot; W. S. Dunlop defeated Holland and Stone for Auditor; P. M. Cobbs defeated General J. F. Fagan for Land Commissioner; and Wood E. Thompson received a majority over three opponents for Superintendent of Public Instruction on the fifth trial.

On proceeding to nominate a candidate for Governor, Professor J. E. Jordan presented the claims of Hughes; Hon. George W. Caruth nominated John G. Fletcher; Hon. J. N. Cypert, James P. Eagle; Colonel John M. Harrell, E. W. Rector; and Hon. J. G. Smith, William M. Fishback. Nominating speeches were short, fervid and charged with personal loyalty. Impatient of delay, the balloting began as soon as the nominations were completed. On the first ballot the vote stood Hughes 122, Fletcher 113, Eagle 97, Fishback, and Rector 25. No variations of more than ten votes for any one candidate occurred until the 85th trial when the results were Hughes 175, Fletcher 153, Eagle 77, and Fishback 25. After this ballot, which was taken amid great excitement, the convention adjourned over Sunday. Governor Hughes' friends had opposed adjournment, fearing combinations against their man. Before adjournment the committee on the selection of a State Central Committee made its report, giving proof of its fairness and determination to strengthen the party for the approaching campaign.

When the delegates reassembled on Monday and began ballotting it appeared that no new combinations had been effected. There were no material developments for some time, except some "dark horse" talk, and after the 117th effort to select a candidate resulted in no choice, William Fishback withdrew from the race to allay factional strife and prevent the "manufacture of a dark horse governor." The first ballot after his withdrawal gave Hughes 180, Fletcher 139, Eagle 107, and Rector 27—a gain of twenty for Hughes and of 30 for Fletcher over the last vote. Eight more ballots were taken without result. When the secretary started to call the roll for the 126th ballot the Calhoun County delegation flopped to Eagle and "an indescribable scene" followed. Amid the wildest confusion, and shouting and hissing in delirium, the delegates cast the ballot which gave Eagle 248 votes to 205 for Hughes. Fletcher's followers had for the most part gone to Eagle.

As adopted the platform endorsed Cleveland's administration and the "Mills bill," opposed Federal interference in State and local affairs, favored liberal appropriations for the improvement of waterways, and instructed the Arkansas delegates to the National Democratic Convention to vote for Cleveland's renomination. As touching State matters it declared with pride that Democratic rule had reduced taxes from 7 to 5 mills, had produced a material increase of wealth, had supported public

education, had developed the State institutions, and had made distinct progress in paying the just debt of the State. For the future it would continue the State geological survey; create a bureau of agriculture, manufactures, mining and immigration; give liberal encouragement to railroads and manufactures; oppose all tax exemptions as encouragement to industries; support the Immigration Associations Bureau and its work; and place the control of State convicts in the hands of the State in such fashion as to prevent convict labor competing with free labor. The people were congratulated on the increase of temperance, a perfunctory call was made for the enforcement of the liquor laws, and all electors of whatever past affiliations were invited to join the party.

In his speech of acceptance Eagle expressed deep appreciation for the signal honor his party had conferred on him, heartily endorsed the administration of Governor Hughes, and promised a clean administration if elected. That effort did much to soften the disappointments of those who had failed to see either their first or second choice placed at the head of the party ticket.[16] With the final adjournment the delegates left the city without the least expression of enthusiasm and with some concern for the outcome in September.

Under the inspiration and leadership of the newly appointed State Central Committee the party forces were organized, as nearly as possible, into ten Democratic clubs in each county.[17] A special effort was made to divide the colored vote, and by the first of August a colored Eagle Club had been organized in Little Rock. Early in August there was held in Little Rock a convention of delegates from all the Democratic clubs in the State. The ostensible purpose of such activities was preparation for the Presidential election in November, but the real source of such organization and temper was the increasing volume of protest against the party in power and an evident willingness of all of that party's opponents to get together on the candidate of the Union Laborites.

The Prohibitionists held a State convention but did not place a State ticket in the field. Ex-Governor Clayton endorsed Norwood as being sufficiently Republican to suit his party, and that was the turn Democrats hoped to give the coalition of Union Labor and Republicans. There was little doubt as to what the great bulk of the Republicans would do, but Democratic leaders tried to make themselves believe that Republicans of the better type would vote for Eagle. Norwood was described by a prominent Democrat as "a mighty clever fellow, a good stumper, a pretty fair doctor, a 'busted' merchant, and can beat all creation farming, with his mouth."[18] But he was really better than this picture. In fact

16. *Arkansas Democrat,* May 31 to June 5, 1888.
17. *Arkansas Democrat,* August 3, 1888.
18. *Arkansas Democrat,* July 31, 1888.

he covered the State with an appeal that swept the discontented off their feet, encouraged Republicans to believe that they, through supporting him, might defeat the Democrats, and gave the Democracy the worst scare it had experienced since 1874. To oppose the growing discontent within their own ranks the party supporting Eagle, through the press and from the platform, insisted that the followers of Norwood were agreed on nothing fundamental except to restore Republican rule under the pretense of a movement to aid the farmer and the wage-earner. Their chief argument, and the one which held thousands loyal to the party, was an unceasing exhibit of the comparative costs of government under Democratic and Republican rule.

Beset with factional disturbances within and strong, shrewd combinations without, the party of conservative home rule passed through the most turbulent year of its history. Eagle was personally affable and popular, but he represented the conservative class and the party of that class had done little to stay the tide of discontent among the farmers. The agricultural masses felt keenly that they were not prospering. While, as Eagle and other Democratic speakers held, their economic difficulties were due in part to "drouths and heavy rainfalls at unpropitious times" for some years, the farmers thought the party in power should have improved conditions.

At the election September 6 the results were for Eagle 99,214, for Norwood 84,213. Eagle's vote exceeded that for Hughes in 1886 by 8,565, while Norwood received 11,080 votes more than both Cunningham and Gregg in that election. The Democratic candidates for the other State offices ran ahead of Eagle by approximately a thousand votes each. At the same election the proposition to hold a convention to frame a new constitution for the State was defeated by a majority of 51,734 in a total of 135,638 votes cast on the question. Only fourteen counties gave that proposition a majority.[19]

Back to the normal Democratic majority of forty to fifty thousand had been a campaign slogan for that party, and predictions were plenty that the party would roll up a larger majority than it had in 1886. Consequently the narrow margin of fifteen thousand was a solemn warning. Faithful Democrats, however, declaring that the party of the people had received a popular endorsement of approximately 20,000 majority, attributed the victory to strict subordination of personal to party interest, to the sound party demand for good government, to the nomination of capable men for office, to total absence of bribery and trickery, to the security of election against fraud, and to the strict discharge of official duties by men entrusted with office[20]

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19. *House Journal,* 1889, 43.
20. *Arkansas Gazette,* April 25, 1889.

Not since the days of Reconstruction was an election attended with so many irregularities. In his charges of fraud before the Legislature in 1889 Norwood specified Ashley, Bradley, Calhoun, Clark, Cleveland, Conway, Little River, Miller, Sevier, St. Francis, and Union as counties in which he had been defrauded of at least three thousand votes.[21] Many Democrats admitted irregularities, but disclaimed a party monopoly on the stealing and stuffing of ballot boxes and the intimidation of voters. Their position was that the only irregularity which could affect the gubernatorial race happened in Pulaski County where perhaps a thousand ballots were destroyed when the poolbooks were stolen.[22]

In the Presidential and Congressional election of November 6 the vote for Democratic Presidential Electors fell 13,252 votes short of what Eagle received in September, while the vote cast for other electors lacked 14,207 reaching Norwood's strength for Governor. In the Congressional election, where Federal supervisors were supposed to keep special watch for irregularities of every kind, many precincts in two districts witnessed frauds of different kinds. W. H. Cate, Clifton R. Breckinridge, Thomas C. McRae, J. H. Rogers, and S. W. Peel—all Democrats—were elected. On contest Cate's seat was awarded to L. P. Featherstone by a Republican majority in 1890. Breckinridge's opponent, John M. Clayton, alleged frauds in a number of precincts and was gathering data to substantiate his charges when he was assassinated at Plumerville. After reviewing the practical politics of the last twelve months the editor of the "Weekly Gazette" felt confident that the recent elections "marked the disappearance of the alleged third party from Arkansas politics."[23]

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21. Fayetteville *Democrat,* January 25, 1889.
22. Fayetteville *Democrat,* February 1, 1889.
23. *Weekly Gazette,* April 25, 1889.

CHAPTER XXIII.

RISING OPPOSITION TO DEMOCRATIC RULE.

The twenty-seventh session of the General Assembly convened at the Capitol January 14, 1889, and adjourned April 3 following. B. B. Hudgins was elected Speaker of the House on the first ballot; but in the Senate a warm contest between James P. Clarke, D. E. Barker and W. S. Hanna ended in Hanna's election to the presidency only on the fortieth ballot, when he received the support of the entire Clarke vote. Governor Hughes delivered a final message embodying his own views on the chief problems discussed during the recent gubernatorial canvass. January 17 James P. Eagle was inaugurated and addressed the joint session on the State of the Commonwealth. He reviewed the financial conditions of the State; advocated the creation of an equalization board; urged liberal support to education, and recommended measures to encouarge immigration. He favored pure elections and called for legislation establishing a commission as the best agency for securing equitable freight and passenger rates from the railroads. It was the new Governor's conviction that the property of the State should bear a part of the cost of opening up and maintaining public roads, and that the number of days men subject to the service should be required to work the public roads be reduced from ten to six. He suggested that the lease on the State Penitentiary be cancelled without loss to lessees and the administrative machinery of the institution be reorganized in the interest of better care of the convicts. A reformatory, he thought, should be established for the young prisoners.

While recognizing the rapid progress made in recent years, he emphasized the fact that there was no general prosperity among the masses. He would continue the State geological survey, work county convicts on the public roads, stop the sale of lands forfeited to the State for taxes until the purchaser might be given something better than a quit-claim deed, and accord girls the same beneficiary privileges as boys at the Arkansas Industrial University.

January 15 the "Weekly Gazette" had addressed to each member of the Legislature a letter asking him to state what he considered the most important matters to come before that body, whether he favored placing any additional restrictions on the elective franchise, whether he favored specifically an educational or property qualification or registration for voting, and whether he favored the consolidation of State and Federal elections. The replies suggested an overwhelming sentiment for change in the management of convict labor, the creation of a railroad commis-

sion or other measures for preventing discriminations by railroads, and a new road law. The replies indicated little interest in restrictions on the suffrage, pronounced opposition to either a property or educational test, distinct hostility to a registration law, and fear that consolidation of elections would encourage Federal interference in elections. It seemed that the legislators had passed through the late canvass without very clear commitment on specific measures.

The output of the session took a wide range and gave marked evidence of astute leadership. Fifteen acts passed touching the courts and twenty-two measures regulated aspects of the liquor business within prescribed areas. In nine acts affecting railroads were amendments of the law of 1885 providing for the forfeiture of railroad charters, extension of the charter of the Little Rock and Alexandria Railroad, regulations governing the purchasing or leasing of railroads, repeal of the main sections of the law prohibiting foreign corporations operating railroads in the State, requirements of inspection of all railroad construction work by the companies, inspection of all servants and employees of such companies, provisions of double-decked cars by all railroads for the shipment of sheep and hogs, protection of passengers against fraud and annoyance by the railroads and conditions on which railroads might extend their lines and build branches.

A number of measures were designed to benefit the farmers specifically. Aid from Congress in establishing agricultural experiment stations was accepted; a bureau of mines, manufactures and agriculture established; the sale of commercial fertilizer regulated; and a lawful barbed wire fence defined. After severe criticism of the State geological survey the law was amended and ample appropriations made for its continuance. On April 1 the Governor approved a law providing for the publication and judicious distribution of four thousand copies of the reports of the geological survey.

The sale of domestic wines was regulated; a closed season established on deer, turkey, quail and prairie chickens; the exportation of fish and game from the State forbidden; and the sale or gift of tobacco to minors, except by parent or guardian, made a misdemeanor. Rules for the conveyance of female patients to the insane asylum were prescribed, and the conditions on which inmates of asylums, public or private, might enjoy the privilege of uncensored correspondence were formulated. Acts were passed to encourage good behavior of convicts, to provide compensation for inquests on bodies of convicts, and to require the Board of Penitentiary Commissioners to appoint an inspector to have oversight of the general treatment of all convicts in the State.

Exclusive jurisdiction over sites for public buildings at Helena, Texarkana and Fort Smith was ceded to the United States; the law providing for the adjustment of differences between the State and the

Federal government arising under a Federal grant of swamp and overflowed lands, was amended to constitute the Governor sole and plenary agent to act for the Commonwealth; and by a separate act the Governor was authorized to "compromise and adjust, prosecute and secure" all claims of the State against the United States. The allowance of claims against the charitable and educational institutions of the State was regulated in minute particulars, girls were allowed to become beneficiaries in the University, the membership of the Supreme Court increased to five and the time for electing the additional judges prescribed, the maximum number of days a person could be required to work on public highways in a year set at five, and county courts empowered to levy a two mills property tax to keep the highways in condition if the labor under the five-day provision failed to be sufficient to that end.

The law of 1887 establishing a State Debt Board was amended to make more specific the duties of that body. In an effort to reduce the expenses of the General Assembly the per diem of its members was fixed at six dollars and their mileage at ten cents, and the salaries of officers were scaled from eight dollars a day for the Speaker to two and one-half dollars for each assistant janitor.

While the legislative production did not meet the full demands of all the elements in the party or satisfy the malcontents who were skirting the twilight zone between the Democrats on one hand and the Union Laborites on the other, it did make substantial progress in all the major problems of economic and social significance. Even greater progress might have been made if it had not fallen to this session to elect a United States Senator, hear the preliminaries of a contest of the gubernatorial election by C. M. Norwood, and withstand the shock of John M. Clayton's assassination.

January 29 the House proceeded to elect a successor to Senator James H. Berry and on the first ballot the vote stood: Berry 71, Clayton 12, Isom P. Langley 3, and E. W. Rector 1. Representative Thompson, of Searcy County, reflected the real attitude of practically all of his party colleagues, when in explanation of his vote he said: "I am a Republican, but for reasons best known to myself, and which must be obvious to any close observer, I voted for Mr. Berry." The general Democratic sentiment was expressed when Gibbon, of Prairie County, said: "I voted for Senator Berry; first, on account of his ability; second, his untarnished honesty and integrity." In the Senate a motion was carried to proceed to the election of a United States Senator without nominations, and on the first ballot the *viva voca* vote stood: Berry 29, Thomas Fletcher 1, Powell Clayton 2.[1]

January 24 Representative Hicks introduced a concurrent resolution to create a joint committee to investigate the charges made in the peti-

1. *Senate Journal,* 1889, 127; *House Journal,* 1889, 199-201.

tion of C. M. Norwood in his contest with Eagle for the office of Governor. That petition had been presented on the 23d, alleging that the petitioner had received a majority of the votes cast for Governor in the election of September last, and praying the appointment of a committee to take such steps as necessary to present to the General Assembly the facts in the case.[2] On January 23 the Norwood petition was presented in the Senate and the prayer allowed under rules consistent with the constitution and laws of the State. Immediately Senator James P. Clarke offered a resolution to refer the case to the Judiciary Committee with instructions to report a measure requiring the contestant to execute a bond to pay the costs of the contest, in case he failed to establish his right to the office sought. The next day the Senate voted to appoint a committee to take testimony in the case, but Senator Clarke's proposition carried and left Mr. Norwood to choose between dropping his case and guaranteeing the State against the cost of the contest.[3] Thirteen days later the House had concurred in a Senate resolution to permit Norwood to withdraw his contest for the office.[4]

The case was not allowed to die so peacefully. On February 14 Governor Eagle vetoed the permission to withdraw. Reciting Norwood's allegations of fraud in more than twenty counties, the Governor declared them true or not true. "If true, that fact ought to be ascertained speedily and the wrong righted. If untrue, the charges should be refuted by incontestable testimony and branded as false and slanderous," said the message. Therefore, Eagle thought it only just to himself, to his party, and to the people that the investigation go far enough to arrive at the truth. "If I was not elected Governor by legal and constitutional methods," he said, "I ought not to be acting in that capacity," and to permit the withdrawal of the contest without withdrawing the charges would prove the present occupant's unworthiness to be Governor.[5] By forty-five to twenty-nine the House sustained the veto. But to avoid costs involved the Senate blocked further proceedings on the case.

The Governor was right in demanding that his title be clear; the House was correct in its willingness for the Democratic party to be cleared of all charges of corruption and fraud; and the Senate was justified in taking advantage of a legal technicality to save the State from twenty to forty thousand dollars.[6]

Of course, Democrats charged the Republicans with encouraging Norwood in his contest with a view to making of him a political martyr for two years hence. Later when C. W. Coffman, G. W. Granberry, John R. Walters and William Nickell—all Democrats—were forced to yield the Pulaski County seats in the House to their Republican oppo-

2. *House Journal* 1889, 111.
3. Fayetteville *Democrat,* February 1, 1889.
4. *Senate Journal,* 1889, 169.
5. *Senate Journal,* 1889, 238.
6. Fayetteville *Democrat,* February 1, 1889.

nents, it was based on evidence that as many as a thousand votes had been irregular there. If their findings led to such conclusions in Pulaski County, a thorough investigation of Norwood's charges might have revealed embarrassing facts. If the Democratic representatives from Pulaski were denied their seats on the grounds of irregular votes, it would seem that the vote for Governor in that county might have justified a thorough examination.[7]

While the Legislature was in session John M. Clayton was assassinated at Plumberville in Conway County. Clayton had been some time at that village with an attorney gathering information and taking depositions to be used in his contest against Clifton R. Breckenridge for a seat in Congress. About nine o'clock on the night of January 29, 1889, as he was seating himself at a table near a window he was shot by an assassin at close range. As reports of the tragedy spread the public became deeply concerned. The victim, a brother of ex-Governor Clayton, was prominent in Republican political circles, in business, and in social life, and held in high personal esteem by all classes of people throughout the State. The people of Arkansas entertained no such feelings toward him as they did towards his brother Powell, and not even in the darkest days of Reconstruction did any respectable people or, so far as known, any of another class, think of assassinating Governor Clayton for political reasons. The unfortunate man had made a vigorous and clean race for Congress, had traveled the district in company often with his opponent, Colonel Breckenridge, sometimes sharing with him both room and bed, and not one unpleasant incident had occurred to disturb their relations. In fact, they were social intimates in their home city of Pine Bluff.

According to official returns and canvass of the votes Clayton had been defeated. Rumors and charges of corruption and fraud in a number of precincts in the district were quite general and firmly believed by Clayton's supporters.

Two days after the death of Clayton, Governor Eagle sent a special message to the Legislature, denouncing the perpetration of the act in the severest language possible and requesting authority to increase the reward for the apprehension of the assassin to a sum that would prove sufficient to bring the offender to speedy justice.[8] A bill to authorize the Governor to offer a reward of $5,000 was defeated on constitutional grounds, but the sum of $5,000 was added to the Governor's contingent fund to be used at his "discretion in the procuring the apprehension of any criminal who had been guilty of any recent brutal murder or assassination in the State of Arkansas." That, together with funds subscribed by individuals without regard to party distinctions, failed to reveal the identity of the individual who fired that dastardly shot.

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7. Weekly *Gazette,* February 21, 1889.
7. *Weekly Gazette,* February 21, 1889.

Under the conditions of party politics of the eighties it was natural for partisan supporters of the dead man to attribute his assassination to the exigencies of Democratic politics, but no evidence to that effect was ever established. It was equally natural for Democrats to attribute it to the vengeance of one wronged during the Reconstruction period. All the usual agencies were enlisted in the work of bringing the guilty person to justice. Detectives, some employed by the State and others by private citizens, worked diligently for months on the case. The Democratic press spared no effort to register the popular condemnation of the act. And when for political reasons insinuations were spread throughout the country that the constituted authorities were not exercising diligence equal to the enormity of the offense, the reading public was reminded that much greater effort was being made by those in authority than had been the case when General Thomas C. Hindman was assassinated. The most unfortunate thing connected with the affair was the attempt of certain politicians to injure Clifton R. Breckenridge by charging that the crime was committed in his interest.

After the Legislature adjourned interest in political questions assumed no calmer aspect. The Clayton murder and the numerous indictments and trials growing out of irregularities at the Congressional election of 1888 kept the temper of partisans at fever heat. A matter of first importance was the special election proclaimed by Governor Eagle for the election of three Supreme Court Justices. The Legislature had increased the membership of that tribunal and a vacancy had occurred through the death of Judge W. W. Smith. The Democrats met in convention at Little Rock March 29 and nominated Judge S. P. Hughes and W. E. Hemmingway on the first ballot for the new judgeships and Judge M. H. Sandels on the eighth ballot for the unexpired term of Justice Smith. There was no popular canvass and but little partisan activity shown in the election. The Republicans supported Judges C. E. Mitchell and Lafayette Gregg. The vote would indicate many a non-partisan ballot. Sandels received 52,925, Hemmingway 52,431, Hughes 51,700, Mitchell 41,987, and Gregg 41,938, giving an estimated Democratic majority of 11,093 in a total of approximately 95,000.

The demagogic politicians both within and without the State stirred the feeling of the people over the Clayton murder. Congressman Kelley, in a speech on Decoration Day at Fort Smith, said: "I am a Congressman, and comrades, I will see that you are protected if my influence and power can effect it, even if we have to resort to martial law." He reminded his hearers that his own State Legislature had passed resolutions denouncing Arkansas and calling on the national government to protect its citizens if it had to put the State under martial law.[9] The speaker voiced the sentiment, if not the conviction, of his party friends, when he asserted

9. *Weekly Gazette*, June 6, 1889.

the attack on Clayton and other Republicans was due to their loyalty to the flag of their country.

During the same months the indictments and trials in Federal courts of those charged with irregularities in the Congressional elections of 1888 went on apace. Democrats insisted that there had been occasional misconduct at a few precincts by both parties and demanded fair and equal treatment at the hands of the Federal courts. The "Weekly Gazette" never tired in arraying instances of where members of the "God and Morality" party had intimidated and suppressed negroes who proposed to vote the Democratic ticket.[10] The same paper devoted a vast amount of energy and space to exhibiting testimony of negroes that they were severly disciplined by their churches for voting the Democratic ticket.[11] At the same time it was made a point to show that great numbers of negroes did not try to vote at all. And turning on the determination of the Darden case the Federal Court was mercilessly scored. Darden, a young man under the influence of liquor, had caused a disturbance at a precinct, depriving some negroes of the right to vote. For that offense the court gave him two years in the penitentiary, while a groups of negroes in Jefferson County were given fines only for depriving thirty white men of the right to cast their ballots.[12] To meet the demands of charity and accentuate the feeling of violated justice a call went out for contributions for the support of Darden's family. Contributions were made, and the discussion went on, the resentment of the people growing keener as they reflected on the deliberations over the Force Bill in Congress. The depth of their feelings was reflected in the opposition manifested towards Judge Brewer's confirmation to the Supreme Court bench.[13]

It was not an age of reason or impartial reflection in political circles. Control of the State government was the aim of all parties and national issues and party manipulations were of secondary consideration. With that end in view the Democrats worked heroically to maintain party solidarity against the attacks of opposition elements. Republicans, political Wheelers and a minority of the young Alliance organization concerned themselves with forming a coalition against the party in office. The Democrats declared: "A Republican victory would mean putting the negro on top of the white men. It would not mean anything else. This is the issue the people of Arkansas are forced to face. There is no other issue and the sole question to be solved at the polls in our State and local elections is whether white or negro rule shall prevail."[14] In reply the "Little Rock Republican" admitted that evident tendencies, aims and purposes of the Republican "management" would seem to

10. *Weekly Gazette,* August 1, 1889.
11. *Weekly Gazette,* July 25, 1889.
12. *Weekly Gazette,* July 4, 1889.
13. *Weekly Gazette,* November 28, 1889.
14. *Weekly Gazette,* December 26, 1889.

justify the "Gazette's" contention. The editor of the "Republican" claimed he had tried to make it possible "for all white men of the Republican organization to choose for themselves, as between their own race and the negro—for truly, is a race issue stronger and far more sacred than any verbal array of mere party tenets."[15]

Declaring there were only Democrats and Republicans in Arkansas, the editor of the "Gazette" wrote: "There'll be no political non-descripts in Arkansas next year. There'll be only Democrats or Republicans. The thin mask worn heretofore must be thrown aside."[16]

The Republican managers were undecided. Clayton thought his party should "nominate tickets in every county and force the issue of progressive administration and honest politics," and the Republican "Eureka Springs Times" endorsed that proposition on the ground that the Democrats were on the defensive. But as time passed it became clearer that the Republicans were preparing to form a coalition with other elements in opposition to the Democrats.

The Farmers' Alliance was developing within its ranks the cleavage so disastrous to third parties. Some Alliance men favored going into politics, while other demanded that their organization remain purely agricultural. The troubles within the Agricultural Wheel were more advanced. That organization was hopelessly split over the question of participation in politics as an organization. By July, 1889, the membership had dwindled to little more than its Union Labor element, and at the annual State meeting of the brotherhood a joint meeting was held with the Knights of Labor in an effort to get together politically.[17]

To counteract the influences which were working towards a fusion of their enemies Democrats kept before the people the record of Republican rule in the State, insisted that Clayton would be boss of any combination formed, and argued that one of the aims of the local Republicans was to secure the enactment of the Force Bill by Congress. Declaring the issue of white man's rule had been forced on the people of Arkansas "by the disreputable elements controlling the organization known as the Republican party," the "Gazette" asserted that the issue would be "met peacefully, friendly and positively." "The man who for six years rode rough-shod over the people of Arkansas," said the same editor, "will never be permitted to regain power."[18]

While Republican leaders, Union Laborites, political Wheelers and a minority of the Alliance men were feeling their way towards a united effort to capture the State government, with Clayton doing the thinking and his allies doing the talking, the Democrats started the political fireworks of 1890 in a Jackson Day dinner on January 8 by the Old Hickory

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15. *Gazette,* January 9, 1890.
16. *Gazette,* August 1, 1889.
17. *Weekly Gazette,* August 1, 1889.
18. *Arkansas Gazette,* January 9, 1890.

Club at Concordia Hall in Little Rock. At that celebration Hon. J. W. House presided. Beginning at 8:00 p. m., the "feast of reason and flow of soul" closed at 2:00 a. m. Judge U. M. Rose, P. D. McCulloch, J. E. Williams and George W. Caruth spoke on "Andrew Jackson," "The Young Democracy," "The Race Problem," and "The Democratic Party, Its Past, Present and Future," respectively. Prominent members of the party from every section of the State graced the occasion.[19]

The Union Laborites and the Republicans were both seriously disorganized. June 10 forty-two delegates, representing thirty-three counties, met in a Union Labor Convention at Little Rock. O. S. Jones was elected chairman and C. M. B. Cox secretary. Harmony marked all the proceedings. Before the platform was adopted or nominations for State offices made the representatives from the W. C. T. U. were given fifteen minutes to place before the body the question of temperance. A slight opposition to hearing the temperance people came out when C. B. O. Gibbons declared that recently the Republicans had lost an election in Iowa because of commitment to temperance, but the protestant was soon calmed. It was imperative that discord be avoided. Morgan declared there were not twenty-five counties in the State where the party had an organization and in many cases it had been impossible to secure names of persons to whom campaign literature might be sent. But on the other hand the enthusiasm of the small negro contingent was distinctly encouraging. A colored delegate from Pulaski County felt sure the party was stronger than ever before and that the people of his color would heartily support it because they wanted a party to succeed which would treat the colored man like it treated the white man.

The platform denounced national banks and declared that all issues of money should be made by the government. It favored the free and unlimited coinage of silver and government loans to farmers on real estate. The ownership of lands by aliens and syndicates was condemned and the governmental repossession of all railroad lands not essential to the business of transportation demanded. An outstanding tenet of their faith was a demand that the government either own or control the agencies of transportation. They called for "a free election and a fair count." During the deliberations there appeared evidences of sympathy for the Republicans, but towards Democratic rule there was displayed a keen hostility. The ticket nominated included N. B. Fizer for Governor and C. M. B. Cox for Land Commissioner.[20]

Early in the year the chairman of the Democratic State Central Committee, James H. Harrod, favored a late convention and no pre-convention canvass in his party, but circumstances forced a different course. Aspirants to places on the State ticket had begun announcements late in

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19. *Gazette,* January 9, 1890.
20. *Gazette,* June 12, 1890.

1889.[21] In February of the election year a leading party organ declared for a second term for all State officers who had performed their functions faithfully and assumed that all incumbents would be candidates for reëlection.[22] The only pre-convention canvass of importance was by William E. Woodruff, Jr., and R. B. Morrow, candidates for State Treasurer.

The convention met June 17 and was called to order by J. H. Harrod and the Woodruff and Morrow forces began to contest for control of the proceedings. In the election of temporary chairman General D. H. Reynolds, supported by the Woodruff forces, defeated John B. Driver by 264 to 234 on the first ballot. Every county in the State except Stone was represented and all but six delegates accredited voted in the contest. A committee of fifteen, with Judge W. H. Cate chairman, was appointed to draft a platform, and by 403 to 98 it was voted to adopted a platform before making nominations.

Responding to a growing demand in the ranks of the party, the platform was framed to hold those Democrats who inclined to radical views. It was considered a good omen that so many farmers had been sent as delegates to the party convention. As adopted, the platform called for legislation to prevent corporate injustice, trusts, and alien land-ownerships. As corrective measures it favored the recovery to the public of all unused lands and no further grants to corporations, and the reservation of all public lands for actual settlers. In unqualified terms it denounced the Force Bill then before Congress, the McKinley bill as infamous, the silver bill as an attempt to demonetize silver, the "Blocks of Five" and "Frying the Fat" methods used in the late Republican campaign, and the present Republican administration for appointing to Federal offices in Arkansas ignorant, vicious and incompetent men. A demand was made for the reorganization of the transportation system of the country to relieve the people from paying dividends on watered stock through excessive freight and passenger charges. Avowing full recognition of the dignity of labor, the party was committed to an unswerving opposition to lessening the fruits of labor's toil by competition with paupers and convicts. With pride was the Democratic rule of Cleveland contrasted with the Republican rule of Harrison. As proof of Democratic achievement since 1874 the platform arrayed the progress in paying the State debt, the restoration of public credit, decrease in taxation, abolition of the partisan State militia, abolition of fraudulent registration boards, a splendid railroad system, adequate charitable institutions, educational advancement in common schools and colleges, the increase of owners of small farms, influx of capital and immigrants, and the honest and fearless enforcement of all laws. It relegated to the people, as a

21. *Gazette,* October 10, 1889.
22. *Gazette,* February 20, 1890.



CLUB HOUSE, RUSSELLVILLE COUNTRY CLUB, RUSSELLVILLE



U. S. POST OFFICE, RUSSELLVILLE

principle of home rule, the right to settle the liquor trade, favored the enactment of a secret ballot law, denounced combinations which increased the prices of school books, favored legislation which would secure school books at reasonable prices, and demanded laws requiring railroads and other corporations to pay their just share of the taxes.

Though not included in the platform, a resolution was passed calling on the Legislature to pass a law requiring railroads to provide separate coaches for the whites and blacks. The Republican Congress was roundly denounced for unseating Hon. W. H. Cate. After W. P. Campbell had declined to serve, J. E. Williams was elected chairman of the new State Central Committee.

With the platform out of the way attention was turned to the nomination of candidates for State offices. Eagle, Chism, Dunlop, Atkinson, Meyers and M. H. Sandels, having no opposition, were nominated by acclamation for Governor, Secretary of State, Auditor, Attorney-General, Land Commissioner and Associate Justice, respectively. William E. Woodruff, candidate for a fifth term, was defeated for Treasurer by Richard B. Morrow by 262 to 239 votes on the first ballot. J. H. Shinn was unanimously named for Superintendent of Public Instruction, and M. F. Locke defeated S. H. Nowlin for Commissioner of Mines, Manufactures and Agriculture.[23]

The Union Laborites and Democrats had spoken, but the final line-up could not be known until the Republicans had held their convention. That body had been called to meet at Glenwood July 9. Democrats were convinced that the Republican organization would finally endorse the Union Labor Ticket, and Union Labor leaders kept their own counsels. June 26 it was reported that a caucus of Union Laborites and Republicans had been held in Fizer's room at the Knott Hotel in Little Rock. Henry M. Cooper, spokesman for Powell Clayton and secretary of the Republican State Central Committee, Frank Silverman, J. M. McClintock, M. D. McCabe, Isom P. Langley, Napoleon B. Fizer and Rev. T. M. C. Birmingham attended the meeting. There in secret conclave, four Republicans and four Laborites, terms of the coalition were agreed upon. Campaign rumor had it that the Republicans had agreed to support the Union Labor ticket, that the Republicans had assumed the responsibility of raising campaign funds, that the whole force of the attack was to be directed against the Democratic record in the State, and that all elements of the Republican party should receive fair consideration at the hands of the administration, if the combination succeeded. Democrats spread broadcast the report that an agreement had been entered into to brand as "a liar" any one who should report the terms of the agreement.[24]

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23. *Arkansas Gazette*, June 19, 1890.
24. *Gazette*, June 26, 1890.

Thirteen days after the secret meeting at Knott's Hotel the Republican cohorts gathered in convention in the little town of Glenwood, far away from the center of political activity. There was in the party deep opposition to the continued dictation of Powell Clayton, and his opponents declared that the convention had been called to meet where the opposition could not endanger his dictatorship. Clayton called the meeting to order at 1:45 p. m. At a caucus on the night of July 8 it had been agreed that J. Pennoyer Jones should be honored with the temporary chairmanship; but when the time arrived for temporary organization Clayton placed John M. Donohoo, colored, in nomination, put the question, declared him elected, and presented him to the convention. The temporary organization was completed by the election of J. M. Doggert, L. R. Crittenden and Cecil Watkins temporary secretaries. A committee of seven was appointed on credentials, but no report came from it. During the temporary organization the orators, taking their cue from Clayton's felicitous speech at the opening of the session and unrestrained by the rules, recounted the virtues of their party.

Permanent organization was effected by the election of H. L. Remmel chairman, J. W. Jackson and J. W. Doggett secretaries, and J. Gray Lucas and M. C. Chennoworth assistant secretaries. But by the time organization was settled little remained to be done. Since the course of the party for 1890 had been determined at the caucus at Knott's Hotel there were no nominations to be made and the platform was of little consequence. However, that document endorsed Harrison's administration and his declaration that the rights of American citizens must be protected in all parts of the world, congratulated the national House of Representatives on the adoption of Reed's rules, on the overthrow of filibustering, on the unseating of members whose claims were based on fraudulent ballots, and on its passage of a law to protect voters at national elections. Calling on the national government to use all of its powers to preserve itself as the fathers had left it, and declaring that all other questions paled before that of a "free election and a fair count," a resolution was passed endorsing Fizer's candidacy and the Union Labor platform's commitment on the matter of fair elections.

The endorsement of the Union Labor candidate was carried by a vote of 273 to 7, but a voice of stubborn protest was raised. R. L. Richardson, a colored delegate, stated his objections to such a course, but he was easily silenced. For once J. Pennoyer Jones accepted the will of the boss in silence. A new State Central Committee was appointed and the convention adjourned.

The canvass was in full swing before the Republicans held their convention. William Fishback began the publication of his "Why the Solid South" in April, and no better campaign thunder could have appeared. Its appearance in the newspapers was a signal for a general rehashing of

the Republican record during reconstruction days. Democratic leaders avowed a purpose to organize a Democratic Club in every township in the State and carry to the people the dangers involved in desertions from the party.[25]

On July 2 M. A. Wycough, secretary of the Union Labor Campaign Committee, notified J. E. Williams of the Democratic State Central Committee, of Fizer's complete speaking schedule for the canvass and invited a joint discussion of the issues before the people. Williams replied that the Republicans, the chief opponents of his party, had not nominated a candidate, that his own candidate's time was consumed with the duties of the Governor's office, and that the Democrats should have been consulted on the speaking dates as preliminary to an invitation to a joint discussion. To that thrust Wycough retorted that Fizer represented a party which gave Norwood more votes in 1888 than Eagle had received and suggested that if Eagle beat Fizer he would win the gubernatorial race. Williams sarcastically replied that Fizer represented a party which cast only 10,613 votes in 1888. The campaign was on and here was reflected the temper in which it ran its course.[26]

The Union Laborites appeared to force the joint canvass before their Republican friends had openly committed themselves. A Fourth of July celebration at Beebe was arranged by local Union Labor people who pressed Eagle to attend. The Democrats had asked that all joint debates be staged after July 9, when all the elements in the contest would be in the open, and the promoters at Beebe appeared to be seeking an advantage over Eagle. But the Governor accepted the invitation, arrived at the city in the afternoon of the third of July, and in the evening responded to a serenade call in a patriotic speech which, by ignoring political issues, captured the sympathies of his hearers. The committee on arrangements had decided that the forenoon of the Fourth should be devoted to patriotic exercises and the afternoon to discussions of political issues. Hundreds of people had gathered from the surrounding country for the festivities of the next day, and Eagle's speech at his hotel appeared as a surprise attack to his enemies.

By the afternoon of the Fourth both sides were ready. Fizer and Coody, an ex-preacher and capable lawyer, respectively, were formidable opponents, steeped in protest against both the record and the management of the Democratic party. Surrounded by neighbors who attributed their economic woes to the party under attack, Fizer and Coody reviewed State politics and government since 1874 with savage bitterness, and the crowd seemed convinced. It was a critical day for the Democrats and Eagle was supported by two campaigners who neither gave nor asked quarters. Col. J. W. House, in his smoother way, delivered heavy blows to the several elements in the combination against his party, but Stephen

25. *Gazette,* June 26, 1890.
26. *Gazette,* July 10, 1890.

Brundidge was even more effective. A forceful speaker, deep and honest in his convictions, informed as few men of his day, sustained by a record without blemish, possessed of a memory which enabled him to set in bold relief the political life story of his contemporaries, and speaking to his own neighbors, he crashed into the records of Fizer and Coody as Wheelers, surveyed the economic and political issues in State and nation, captured the crowd and left his opponents utterly discomfited. No cause in Arkansas ever enjoyed an advocate of higher purpose or purer methods than the Democracy possessed in Brundidge in 1890. His contempt for the usual devices of the successful politician gave him tremendous power over men dissatisfied with the Democracy but capable of contemplating the dangers of a government in which Clayton might have influence. The campaign was on.[27]

Ten days after the Beebe celebration the gubernatorial candidates spoke from the same platform at Evening Shade. Fizer was on the aggressive. He attacked the record of the Democrats, especially the Churchill defalcation, with stinging effect. In his criticism of that record and his advocacy of special legislation he was at his best, but his elucidation of the proposed substreasury scheme and his attack on the national banks were not forceful. In a speech at Corning he turned his attention to the charge that he was a party to a scheme to return the Republicans to power and weakened his cause. "They speak of negro domination," he said, "they hold up Powell Clayton as a great bug bear. I am not here for the purpose of defending Powell Clayton, but I can and will say he has been a much abused man. He is not as black as he has been painted. But I do know that Powell Clayton is not in sympathy with the Union Labor movement."[28]

The Clayton assassination figured prominently in the campaign, Republicans holding that the outrageous crime was typical of both the spirit and methods of the Democrats, and Democrats endeavoring to shift all responsibility for that act off their party. If Powell Clayton was opposed to what Fizer represented, Democrats could account for his endorsement of that candidate on no other ground than a scheme of the Republican boss to restore negro domination in the State. As further evidence of that individual's purposes and methods it was pointed out that many negroes were in revolt against him because he had sold them out for the "wishy-washy ex-Rev. Fizer" who had duly received the formal rite of Republican baptism.

When interest fagged in other topics Democratic campaigners returned to the record of the Republicans, pictured the caucus of June 26, attacked the proposed Force Bill, or foretold the disasters which would follow the Alliance's entrance into politics. Problems to which speakers and editors gave their best thought were better public roads, a new State constitu-

27. *Gazette*, July 10, 1890.
28. *Weekly Gazette*, July 17, 1890.

tion, the convict lease system, a secret ballot, abolition of the crop mortgage, separate coaches for the races, control of the liquor business, the importation of negroes, and the creation of a railroad commission. There was little variety in the Union Labor attack or the Democratic party up to the day of election.

Election day passed with interest at high tension, but with fewer irregularities than two years before. When the ballots were counted the Democrats had a larger majority than in 1888. Eagle received 106,267—an increase of 7,053 over his own vote in 1888, while Fizer had 85,181, or less than a thousand more than Norwood had received.[29]

November 4, at the Congressional election, W. H. Cate, C. R. Breckinridge, T. C. McRae, W. L. Terry, and S. W. Peel were elected to the national House of Representatives. The election of Cate and Breckinridge was of serious importance to their constituents. Both men had been elected in 1888, but Cate had lost his seat to L. P. Featherston on a contest, and Breckinridge had been ousted as late as September 5, less than two months before his triumphant vindication.

29. *House Journal,* 1891, 55; *Southern Standard,* September 19, 1890.

CHAPTER XXIV.

THE CLIMAX OF AGRARIAN DISCONTENT.

The period from 1890 to 1896 witnessed the climax of the agrarian movement in the rise and decline of the Populists. During those years issues remained virtually unchanged. The Republicans, without change in either leadership or principles, continued the major element of opposition to the party in power and fused with other opposition groups or supported a straight party ticket as suited their immediate purposes. The Populists, a distinctly minor group, composed for the most part of farmers and guided by leaders of limited experience, increased their voice of discontent, combined with the Republicans, or worked independently as considered expedient, and forced the dominant party into more Populistic channels. The Democracy, controlled by experienced and conservative leaders, administered the government on an economical scale and fought the opposition by keeping before the voters the record of the Republican party, stigmatizing the Populists as obstructionists and radicals who were playing into the hands of the old Reconstruction party of corruption and plunder, and gravitating slowly in the direction of Populism.

During the six years named party politics ran through the nominating conventions and campaigns incident to three State elections; two governors administered the affairs of State and a third was elected; the same party controlled without material opposition three regular sessions of the General Assembly; the State supported institutions experienced substantial improvement; the burden of government was kept within moderate limits; the State increased in population and wealth; and after 1896 the voice of protest gradually declined. Distinctive accomplishments and incidents outside the field of party politics were not lacking, but, with the exception of those which had political significance, they are told elsewhere in this work.

The Democrats had won the election of 1890 by too narrow a margin to be deceived. It was obvious to reflecting men in the party that the voice of protest needed only more respectable associations in the next election to make itself felt more deeply. At the same time it was evident that the Union Labor party had met shipwreck. It had never been thoroughly organized, its leadership was without distinction, its constituency lacked cohesion, and its program was too radical. Its elements soon began drifting in the direction of the People's party.

A serious task faced Governor Eagle and his party when their control was extended for another two years. The dissatisfaction with the Democratic party required attention. Fortunately four months were

to elapse between the gubernatorial election and the assembling of the Legislature, and in that period the executive and the lawmakers could evolve a legislative program calculated to check the drift towards another third party, or they could remain in the grip of conservatism.

The General Assembly met in its twenty-eighth regular session on January 12, 1891, and concluded its labors after eighty-three days. James P. Clarke and E. W. Rector were elected President of the Senate and Speaker of the House, respectively, with only one vote against each. During the second day of the session the Governor's message was read. Besides covering at length the reports of the several State officers and giving a full statement of the condition of the State institutions, it recommended a practical printer for the Board of Public Printing, the levy of a fee from foreign corporations to transact business in the State, an increase in the salary of the State Treasurer, an appropriation of $100,000 for a State exhibit at the World's Columbian Exposition, legislaion to check hasty and improper marriages, a commission or other agency for railroad supervision, a business manager and administrative reorganization for the State Penitentiary, a secret and uniform ballot law, a State Board of Equalization, a law "designating pugilism a crime," and creation of a Fish Commission. It called also for a joint committee to investigate rumors of a shortage in the State Treasurer's accounts.[1] The question of legislation on the crop mortgage, together with those of a new road law and separate coaches, found no place in the Governor's program.

In the election of a United States Senator on January 21, James K. Jones received 106 votes to 4 for D. E. Barker, 12 for Jacob Trieber (Republican), and one for J. F. Sallers.[2] The lawmakers made an encouraging start, but the proposition to investigate Treasurer Woodruff's books brought on trouble from which the two houses never fully recovered. More than half the session was given to local and special measures.[3] Despite the fact that one-fifth of the legislators were preachers, a vast deal of bad temper was displayed, especially in the House of Representatives. The "Arkansas Democrat" expressed "a feeling of profound regret at the wanton violation of the rules by certain members of the Legislature" and pronounced the session as a whole a sad disappointment. The same paper attributed the failure of much important business to the impatience of the Senate with the conservatism of the House.

But the session was far short of a failure; and, while neither the party's campaign pledges nor the Governor's program was realized in full, the output of the eighty-three days went far towards allaying the discontent over Democratic rule. One hundred and sixty-three general

1. *House Journal,* 1891, pp. 17-37.
2. *House Journal,* 1891, p. 110.
3. *Arkansas Democrat,* April 3, 1891.

and local acts, six private acts, two joint resolutions, three memorials and twenty-four concurrent resolutions do not suggest the lack of energy or serious deadlock in the General Assembly. In these groups were found eighteen acts regulating phases of the liquor business. Laws passed in the interest of the farmers included measures describing a legal barbed wire fence, creating fencing districts, and prescribing regulations for levee districts. Scalage in weighing cotton was prohibited and the increase of mortgaged cattle exempted from mortgage. A State Board of Pharmacy was established, the promotion of, or indulgence in, a prize fight within the State was forbidden, gaming with minors was prohibited, a general sanitary law was enacted, and the State's Representatives in Congress memorialized to seek the enactment of a law to prevent lotteries. Corporations were of special concern. Officers were made liable for any debts incurred by their respective corporations during any period in which such individuals neglected any duties prescribed by law. Rigid rules were prescribed for serving legal processes against fraternal insurance companies and insurance companies of every description were required to execute bond before doing business in the State. Railroads were required to provide separate coaches for whites and blacks, to provide proper facilities for handling baggage in such a way as to prevent breakage and rough use, to maintain bulletin boards for posting schedules, and to drain their roadbeds in certain cases. The same corporations were made liable for persons and property injured on their tracks by neglect of employees to keep proper lookout, and the Governor was directed to cause suit to be instituted for the collection of overdue taxes from railroads under the law of 1887. Exclusive jurisdiction over a site for a public building at Camden was ceded to the United States, the State was divided into six districts for Congressional representation, and booming and rafting companies were authorized for the encouragement of the lumber industry. Modest pensions were provided for indigent and incapacitated ex-Confederates and the ex-Confederate Association of Arkansas was incorporated. A State Board of Election Commissioners was created, consisting of the Governor, Auditor, and Secretary of State, to have jurisdiction over State elections and both elections and ballots were regulated in meticulous detail. The law providing for the adjustment of differences between Arkansas and the United States growing out of the grant of swamp and overflowed lands to the State was amended. An appropriation of $2,000 annually was made to enable the Superintendent of Public Instruction to provide a three months' normal school in each Congressional District for whites and two such schools at large for the negroes. Regulations were made for the acceptance of the refund of the direct Federal tax paid by citizens of the State and the Governor directed to repay it on presentation of the original receipts. An amend-

ment, No. 2, was submitted requiring the payment of a poll tax as a qualification for voting.

As we have seen, the Governor's message called attention to rumors that the retiring treasurer was short in his accounts. On January 19 a joint committee was appointed to investigate the matter and report the findings to each house. The committee began its labors immediately. Woodruff placed with J. H. McCarthy and D. G. Fones, as trustees, farm lands valued at $70,000 when unencumbered. The bondsmen involved estimated the shortage at $96,000,[5] and on February 19 the State Treasurer demanded payment. Thereupon the bondsmen for the late Treasurer delivered at the treasury $63,740.63. On the day of that payment the joint committee was directed to inform both branches of the Legislature of the exact amount the State had thus far received. The Governor on that same day approved a concurrent resolution embodying a recommendation that the executive suggest to the proper officers that William E. Woodruff and his accessories in the case be apprehended and proceeded against under the criminal laws.

Between April 23 and September 30, 1891, the "Burning Board" by official direction completed the work of trying to ascertain the exact credits due Woodruff on certain claims he set up through his special representative, J. L. Bay. In the meantime, on June 26, a grand jury, after long deliberations, indicted Woodruff for converting to his own use funds belonging to the State,[6] and on October 9 Governor Eagle directed the Attorney-General to proceed with suits to recover the full amount due the State. Judge U. M. Rose was employed to assist the Attorney-General.

By the time suits were instituted the Woodruff defalcation had become an issue of the first magnitude. Criminal proceedings against the alleged defaulter ran the usual course and ended in his acquittal. It was slightly different with the case in chancery to determine his responsibility and the amount taken from the State. The first case in chancery began with the filing of a suit against Woodruff and his bondsmen to recover $148,683.84. That case closed on July 8, 1892, in the appointment of Thomas H. Simms Special Master to state the accounts concerned in the case. Judge Simms labored diligently from August 1 to November 16, 1892, and reached the conclusion that the State had lost on account of Woodruff's irregularities $43,857.75 without interest.

The depositions in chancery revealed a pitiable case. The defendant had begun his irregularities quite early in his term as Treasurer. Without security or proper record of the transactions he had advanced money to Ananias Godbold for the purchase and operation of plantations mortgaged to others than Woodruff. It was never made clear where the

5. *Arkansas Democrat*, January 26, 1891.
6. *Arkansas Democrat*, June 26, 1891.

money had been procured, but it was evident that the accused man had not kept his personal funds entirely separate from those of the State. It also appeared that he had been loose in placing public funds with banking institutions, but there was no convincing evidence that any of his shortage was due to that practice.

The "Arkansas Democrat," though hostile to the accused, was near the truth when it declared: "The Woodruff shortage, from beginning to end, is the worst thing of its kind that has happened in all the history of the State. It is a matter of deep humiliation and keen regret to every right thinking citizen." For Eagle's entire second term it was a serious embarrassment for the Democratic party. As late as April, 1894, bondsmen in the case delivered to the State $26,000, making a total of over $90,000 paid by them.[8]

Under the act of April 9, 1891, the Governor proceeded to carry out the will of the General Assembly in realizing on the refund of the direct tax collected by the Federal Government during 1865 and 1866. The United States Secretary of the Treasury found the amount due Arkansas to be $156,272.65. At the modest expense of $832.80 the names of those who had paid the tax and the amount paid by each were ascertained through General B. W. Greene. The Governor, accompanied by one friend, went to St. Louis, collected the amount due from the Subtreasury, brought it to Little Rock and deposited it in the State Treasury. He then employed Kie Oldham at $100 a month and Allen Dodd at $75 a month to make the individual refunds. The two men began their work on August 1, 1891, and continued to the first day of the next May, when the unsettled claims became sufficiently few for the Governor's office force to continue the refunding. By October, 1892, all but $52,593.74 had been disposed of, and that at the cost of a little more than one per cent. The General Assembly of 1893 directed Governor Fishback to continue to adjust the funds as Eagle had recommended.[9]

It was during this period that the State began giving worthwhile consideration to the indigent and incapacitated Confederate soldiers. A movement in the interest of those veterans started in an informal gathering of ex-Confederates in Little Rock early in 1888. Out of that meeting came a large and enthusiastic convention of ex-Confederates in Little Rock July 4 of that year. At that convention was organized the Ex-Confederate Association of Arkansas. The association adopted a constitution and by-laws and selected a board of directors to carry out the work of the organization. The directors raised by subscriptions about $8,000 and purchased for $3,500 fifty-four acres of land from Otis Patton, who contributed $500 of the purchase price.[10]

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7. *Arkansas Gazette,* February 26, 1891.
8. *Arkansas Gazette,* April 11, 1894.
9. Acts of Arkansas, 1893, 364.
10. *House Journal,* 1891, p. 252.

Governor Eagle in his message of January, 1891, said: "The long-delayed duty of providing for disabled and indigent ex-Confederate soldiers should be neglected no longer. . . . Can any true man say that the State should not render some assistance to this class of her citizens? . . . It is a fact worthy of note that so few ex-Confederate soldiers are not self-supporting."[11] A House Committee of fifteen visited the Association Home and reported its location desirable, its management good, its accommodations inadequate and its six inmates cheerful and thankful for their home. The report carried a recommendation that the State take over the project and carry on the work on a more adequate scale.[12] This report inspired two laws. The first law, approved April 1, 1891, provided pensions for disabled soldiers and their widows, created a State Board of Pensions to administer the act, levied a tax of one-fourth of one mill on the taxable property in the State for two years for a pension fund, and stipulated that $10,000 of the fund be appropriated annually for the erection and maintenance of the Confederate Home already established by the Ex-Confederate Association. It was provided that no inmate of the Home should draw a pension and that the association convey to the State a title to the property.[13] The second law, approved April 9, incorporated the Ex-Confederate Association of Arkansas. The first collection of the tax yielded $41,818.83, and of that sum $26,800 went for pensions during the first two years. The Board of Trustees of the Home, with its first allotment completed a $10,300 building with accommodations for sixty-four persons. Due to the increase of inmates to twenty persons the trustees incurred a debt of $2,500. The Legislature of 1893 continued the tax, appropriated money to pay the debt, and provided $10,330 for running expenses for two years. With that act the Confederate Home became a full-fledged State charitable institution.

Within less than two weeks after the Legislature adjourned the city of Little Rock and citizens throughout the State received a thrill from a visit by President Harrison. The Presidential party arrived from Memphis at 5:30 p. m. Governor Eagle, accompanied by a few local celebrities, met the visitors at the State line and accompanied them to the Capital City. At Lonoke Mrs. Eagle, Mrs. Logan H. Roots, Mrs. W. G. Whipple, Mrs. W. C. Ratcliffe, Mrs. H. C. Caldwell, Mrs. C. C. Waters and Misses Fannie Witchell and Jean and Pansy Loughborough joined the Governor and the guests. When the party arrived at the Union Station they were met by a large guard of honor, accompanied by the Jennie Holman Band, a platoon of mounted policemen, the McCarthy Lights from the Grand Army Post, and such a procession of local citizens as had never before appeared on the streets of Little Rock. From the station the procession moved to the State House, where on an elaborate platform, erected for

11. *House Journal*, 1891, p. 32.
12. *House Journal*, 1891, p. 254.
13. Acts of Arkansas, 1891, 165.

the occasion, the State officials greeted the visitors. Governor Eagle presided and delivered a short welcome address. The President responded in ten felicitous sentences, the Hon. Jeremiah Rusk spoke briefly, and the visitors returned to the railroad station and resumed their journey towards Texarkana. The visit had lasted only two hours, the President had made a good impression, and the fifteen thousand citizens who had assembled felt close to the nation's heart.

After the adjournment of the Legislature the year 1891 witnessed little of political interest. The masses found themselves in the grip of hard times, little understanding the economic forces for which they were demanding remedial legislation. The politicians discussed the proposition of holding a constitutional convention, the negro exodus to Oklahoma, the desirability of breaking up the plantation system through a diffusion of the colored population, the creation of a railroad commission, the improvement of public roads through a tax levy, the evils of convict lease labor, the importance of preserving Democratic solidarity, and the whole range of questions involved in national politics; but the masses thought of declining prices of farm products, the crop mortgage, official defalcations, and the competition of convict labor with free labor. The common man was losing faith in the old parties, he had witnessed the failure of the Grange, the Wheel and the Union Labor movements, and now he watched the Alliance drifting into a new party offering economic relief.

A leading editor asserted that if the Democratic party met defeat it would be due to official misconduct, to the crop mortgage, and to neglect of the farmers.[14] Earlier the same writer declared: "The Farmers' Alliance may be wrong in demanding the Subtreasury, but it is right in nearly everything else."[15] According to this observer the Alliance might, or might not, line up with the People's party, but its opposition to the crop mortgage and the convict lease system was fully justified.[16] Moreover, he declared that if Woodruff's defalcation had been known in 1890 the party would have met defeat in that year. Aware of the criticisms the Alliance men were leveling at the Democratic party for neglecting the farmers' interest, the "Arkansas Democrat" declared that organization would "be a power in the next election and the best thing for the Democrats is to remember that fact." The editor's further advice was for his party to avoid conflicts over side issues, settle the tariff question, and advance on silver later. Realizing the contest of 1892 was to be the hardest since 1874, Democrats were warned against early candidacies or a long canvass.[17]

The prospects of a new third party caused genuine alarm, but many members of the dominant party proposed to meet it as they had met the Wheel and the Union Labor attacks, by ridicule and scorn. Conse-

14. *Arkansas Democrat,* August 14, 1891.
15. *Arkansas Democrat,* May 13, 1891.
16. *Arkansas Democrat,* June 4, 1891.
17. *Arkansas Democrat,* August 17 and December 20, 1891.

quently the constituents of the new party were "the left overs" of previous discontent, "ne'er-do-wells," the "odds and ends" of Democracy, and zealots, who had little to lose in their struggle for control. "Pops," Populists, "P.P.'s," "Pee Pees," and "P. Pers" were terms applied to the new partisans, who could accomplish nothing more than to split the Democratic party, restore Republican rule and negro domination, and drag a perfectly good farmers' organization into politics. The Republicans were not enthusiastic over the prospects of a third party unless they could use it to advance their own interests, and the rank and file of the party opposed that course. One Republican said: "In the Norwood campaign we furnished the votes and got nothing—not even thanks. In the fight for Fizer it was the same way. The opposition to the Democracy casts a large vote, but after all . . . . it is mainly the Republican vote."[18] Moreover, the last combination of the Republicans with disaffected Democrats had caused bitter protest within the party ranks; and worse still, the People's party was making to the negroes an appeal which might succeed and greatly reduce the Republican showing in the Presidential election. Therefore, a straight Republican ticket was demanded.

On February 27, 1892, the Republican State Central Committee met at Little Rock and called a State convention for April 7. On that date the delegates met in the hall of the House of Representatives at the Capitol. Early on the 7th the State Central Committee met in the Lincoln Club and agreed that M. W. Gibbs should preside in the temporary organization and Powell Clayton be chairman of the convention. The proceedings were brief. Clayton made a rousing speech, delegates were elected to the national Republican Convention and instructed for Harrison, and a platform was adopted. At that point the convention adjourned to meet July 6. The platform endorsed Harrison and his administration, demanded laws to secure every elector his vote, denounced lynching and mob rule, condemned Eagle's administration, asserted that Henry Page was the only State Treasurer since the Civil War to retire from office without defalcation, criticized the new election law as partisan, and opposed a tax qualification for voting.[19]

The Democrats, anxiously watching developments in the Alliance, the new third party and the Republicans, opposed early party activities in their own group, but aspirants to office forced a different course. In midsummer of 1891 a close observer began warning those who aspired to office against early candidacies, but it was not long before William Fishback and A. W. Files were avowed candidates for Governor, and D. H. Reynolds, E. W. Rector, John G. Fletcher, B. B. Chism and H. A. Dinsmore were prominently spoken of for that office.[20]

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18. *Arkansas Democrat,* August 21, 1892.
19. *Gazette,* February 26, 1892.
20. *Arkansas Democrat,* August 17, 1891, and January 10, 1892.

Early in February Chairman J. E. Williams called the Democratic State Central Committee to meet in Little Rock at 7:30 p. m. March 10 and suggested that cities might bid for the State convention. When the committeemen assembled Fishback was scheduled to speak in defense of his political record at the State House, and the committee meeting was postponed to 2:30 p. m. the next day. At the hour agreed on the committee met in the rooms of the Old Hickory Club, called a State convention at Little Rock on June 14, recommended June 4 for holding local primaries and June 7 for county conventions, heard a delegation from certain labor organizations, and referred their protests against the competition of convict labor with free labor to the State convention.

From March 11 the Democratic candidates canvassed diligently and leaders of the party kept up ceaseless attack on the record of the Republican party and the third party promoters. The Rev. Birmingham was roundly denounced for preaching politics in the Methodist Church at Ozark. A vast majority of the newspapers threw their support to Fishback. Pretending there was a united Democracy in Arkansas, the "Gazette" declared all of its opponents trained with the "miserable old Carpet-baggers" who jumped at Clayton's command.[21] The record of Republican rule through negro domination and the dire consequences to follow the entrance of the Alliance into politics were played up in a tone and spirit to hold the party ranks solid.

In the meantime the Prohibitionists held a State convention in the hall of the House of Representatives May 4. George C. Christian presided and Mrs. Catherine Smith acted as secretary. Only about seventy-five people, one-third of whom were yeomen, attended. After adopting a platform of Populistic tone, and centering mainly on the whiskey question, Judge W. J. Nelson was nominated for Governor. Presidential electors were chosen, delegates to the National Prohibition Convention and a State Central Committee were elected. Having placed the matter of naming other candidates in the hands of the State Committee, the convention adjourned.[22]

On June 14 the Democratic hosts met at high noon. W. C. Braley and John M. Harrell were temporary chairman and secretary, respectively. C. A. Bridewell was made permanent chairman and George M. Chapline and C. S. Collins secretaries. Attendance was full and enthusiasm high. A majority of the delegates were instructed for Fishback and anxious for the choosing of candidates. Colonel John H. Rogers, in an eloquent review of his favorite's public career, placed in nomination William Fishback. Since that career had been successfully defended throughout the pre-convention canvass against scathing criticisms, little remained for the convention to do but register the will of the party. A.

21. *Gazette,* February 21, 1892.
22. *Gazette,* May 4, 1892.

W. Files, S. P. Hughes and two minor candidates were voted on. On the first ballot the vote stood: Fishback 440, Files 72, Hughes 7, McDonough 8, and House 1. The leading candidate having carried all but twelve counties, his nomination was made unanimous. For other places on the ticket there was competition, but in no case was the race close. On the ticket were placed H. B. Armistead for Secretary of State, C. B. Mills for Auditor, R. B. Morrow for Treasurer, James P. Clarke for Attorney-General, Josiah Shinn for Superintendent of Public Instruction, C. B. Meyers for Land Commissioner, John D. Adams for Commissioner of Mines, Manufactures and Agriculture, and W. E. Hemmingway for Associate Justice.

The most significant work of the convention was embodied in the platform. That document reflected the triumph of those who proposed to make the party sufficiently populistic to hold a vast majority of the discontented Democrats. After scoring the national Republican administration for flagrant abuses of power, for depleting the treasury surplus, for vicious class legislation in the McKinley tariff, for depriving states of their just representation by a false census, for their attempt to pass a Force Bill, and for pensions bureau frauds, it denounced the McKinley tariff on seven specific counts. With an avowal of faith in the Constitution, the Union and the capacity of the people for self-government, it declared the mission of the Democratic party to return the tariff to a revenue basis and to find a safe and sufficient currency with a parity between gold and silver. The Sherman silver law was pronounced a sham. On strictly State matters it favored support for the public schools, abolition of the convict lease system, free and fair elections, and a modified Australian ballot as embodied in the recent election law.[23]

In pursuance of a call issued by its State Central Committee, the People's party met June 21, in the hall of the House of Representatives. Judge J. N. Pittman was temporary chairman and W. W. Heard was secretary. Attendance was quite discouraging, twenty-three counties having no delegates whatever. The platform endorsed the entire body of Populistic doctrines, condemned Democratic rule in the State, opposed Amendment No. 2, favored the substitution of official salaries for the fee system, advocated textbooks at cost by the State, called for the abolition of the convict lease system and the establishment of a penitentiary farm and a reformatory, and rebuked the looting of the treasury by Democratic officials. Rotation in office, a just road law, an election law after the order of the Force Bill, and condemnation of public expenditures for such luxuries as the World's Fair were fundamentals in their creed.

A resolution offered by a colored delegate that the aim of the People's party was to elevate the downtrodden sons of toil irrespective of race or

23. *Gazette,* June 14, 1892.

color was adopted without dissent. Greetings from "170 delegates, including 82 ex-Confederates, 32-ex-Union men and 11 colored men" were telegraphed to the South Dakota People's party convention. The nominees were J. P. Carnahan for Governor, P. T. Davidson for Secretary of State, A. A. Steel for Auditor, Warren Wright for Treasurer, W. P. Parks for Attorney-General, W. F. Hill for Associate Justice, J. M. L. Thomason for Commissioner of State Lands, Rev. G. W. Crosby for Superintendent of Public Instruction, and W. M. Manning for Commissioner of Mines, Manufactures and Agriculture. A campaign committee of seven was appointed and a campaign fund of $727.75 was raised.[24]

The convention season closed with the second Republican gathering July 6. At that meeting Clayton was not present, but his lieutenant, Henry M. Cooper, carried out the program. Frank M. Thompson was chairman. The chief business of the meeting was to decide on placing a State ticket in the field. With that question the party leaders had been long concerned, but were still undecided. As soon as the question was raised on the floor James K. Barnes declared he would never attend another Republican convention, if the present assemblage failed to nominate a full State ticket. As between the People's party and the Democrats, Barnes inclined to the new party, but he would combine with neither. That deliverance practically decided the matter. On motion of Jacob Trieber, W. G. Whipple was named for Governor. The complete ticket included James Otes for Secretary of States, Charles N. Rix for Treasurer, J. M. Donohoo for Commissioner of State Lands, E. P. Freeman for Superintendent of Public Instruction, D. C. Gordon for Commissioner of Mines, Manufactures and Agriculture, S. A. Williams for Auditor, and Enoch H. Vance for Attorney-General. Presidential electors were chosen and the Executive Committee was authorized to fill all vacancies on the ticket.[25]

The Gubernatorial canvass opened at Searcy July 16, when Carnahan, Whipple and Fishback discussed the issues of the day and pressed the claims of their respective parties.[26] On the following day appeared a complete schedule of joint speaking engagements agreed on by the three State committees. It began with an 8:00 a. m. hour at Newport, July 30, and closed with a grand round-up at Little Rock at 8:00 p. m., September 3. Before the joint canvass began Carnahan and Fishback toured the north central counties and met in eleven speaking engagements. Those joint discussions were great occasions. For the most part crops were laid by and people came great distances to hear their favorites. Fishback, a spellbinder with personal charm, presented the claims of the Democratic party with convincing force. Carnahan, less gifted as an orator than his Democratic opponent, was at an advantage

24. *Gazette*, June 21, 22, 1892.
25. *Gazette*, June 21, 1892.
26. *Gazette*, July 16, 1892.



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CITY AUDITORIUM, HOPE

in waging an offensive against the record of the party which had ruled Arkansas for eighteen years. With no record to defend, and showing a slight tenderness for the Republican régime in the State, Carnahan voiced the protest of those who thought they toiled without a fair division of the fruits of their labor. Whipple, representing a party whose record was best not mentioned and whose majority element belonged in the same economic group as the supporters of Carnahan, attracted little attention, but he delivered many a blow at Democratic inefficiency, official defalcation and corruption of elections.

Democrats with one voice held that there was no new party except in name; that the People's party was composed of the "left-overs" from the Greenback, Wheel and Union Labor malcontents who were seeking to restore Republican rule. "A vote for Whipple or Carnahan," declared the "Gazette," "is a vote for negro supremacy and bayonet rule.[27] Whipple was reported as saying "he was as black as a negro when it comes to politics." When the record of the Republican rule was mentioned, the "Gazette" replied: "It has been a good while since the Republicans had charge of affairs in Arkansas, and stole the people's property and murdered the people, but it has not been long enough for those left behind to forget it."[28] That record "is pretty well known all right." Late in July the Democrats secured and published a letter from Whipple to L. T. Hall, stating that it was the plan for Carnahan to meet Fishback and "help the Republicans materially." For the remainder of the canvass that phrase turned many a wavering Democrat to his old party allegiance. In the heat of the contest there came into the State nine men from Tennessee, three from Kentucky, five from Texas, six from Louisiana, and one from Missouri to help enlighten the downtrodden in the principles of the People's party; but Democratic editors and speakers made it appear that the State needed no foreign aid.[29]

When the votes were counted Fishback had 90,115, Whipple 33,644, and Carnahan 31,177. The other Democratic candidates received about the same majority as the head of their ticket.[30]

The people had passed through four months of intense partisan bitterness, generated in economic depression and aggravated by a growing conviction that the government, State and national, had been directed largely by and for the favored classes. Class consciousness reached its fullest development in those months. And then people began explaining the outcome of the contest. Republicans asserted that it was due to Democratic intimidation and fraud through maladministration of the new election law. The People's party, according to the Memphis "Scimitar,"

27. July 22, 1892.
28. July 16, 1892.
29. *Gazette,* August 19, 1892.
30. *Gazette,* September 18-20, 1892.

attributed their own poor showing to the same cause.[31] The Democrats attributed their triumph to Clayton's indifference to Whipple's campaign and to Featherston's scheming to trade Populist votes for Harrison in November for Republican votes for Carnahan. They also claimed that many negroes had voted for Fishback. A further explanation was that the just administration of the secret ballot law had encouraged independent voting, and the independents had supported the Democratic ticket. To the successful party, the people had refused to be deceived by the ravings of the People's party men against Democratic rule or by their promises of legislative panaceas for all the economic evils of the times.

While the wise men were reflecting on how and why it was done, Governor Eagle was returning from a four months' quest for health, Fishback was "stump speaking" for the national Democratic ticket in New York, New Jersey, Connecticut and Indiana,[32] and the more civic minded were pushing the preparations for a State exhibit at the Columbian Exposition and agitating a better roads program. At the very end of the year Fishback and Charles E. Mitchell went to Chicago and accepted the Exposition building which the Fair Association had contracted for and the Association and the Ladies' Columbian Clubs were preparing to present their work to the State.

And still the Congressional and Presidential canvass went on. All of the Democratic candidates for Congress—P. D. McCulloch, T. C. McRae, W. L. Terry, H. A. Dinsmore, Robert Neill, and Clifton R. Breckinridge —waged vigorous campaigns, and all were elected in November. In the Presidential election the Democrats fell 2,281 short of Fishback's vote, the Republicans exceeded Whipple's vote by 13,333, and Weaver and Field received only 11,831 votes.

The Democratic triumph at the election of 1892 did not hush the voice of protest, nor did Fishback's election satisfy great numbers of Democrats. Conservative politicians appeared to consider the Populist movement ended and sought to direct public attention to the old questions of encouragement of railroad construction, a constitutional convention, and the reorganization of the militia. But the Populists and a large element of Democrats demanded reform in the management of the penitentiary, cheaper school books, improved public roads, abolition of the crop mortgage, and State regulation of current railroad practices. And on these subjects public discussion turned with an emphasis which deserved attention at the hands of those who formulated State policies.

The General Assembly met in regular session on January 9, 1893, and adjourned April 8 following. In a heated contest against J. F. Sellers, C. A. Bridewell and H. N. Hutton, Hon. T. C. Humphrey was elected

31. *Gazette*, September 13, 1892.
32. *Gazette*, September 25, 1892.

Speaker of the House on the twenty-second ballot.[33] In the Senate, Hon. E. B. Kinsworthy was elected President on the first ballot. The Democrats were in complete control, there being in the Senate only one Republican and two Populists and in the House five Republicans and six Populists.[34] The "Arkansas Gazette" (January 8) predicted much valuable legislation from a body containing so many men of ability, but at the close of the session a competent observer pronounced them a lot of average men.[35] A vast deal of time was devoted to purely local legislation and of the 694 bills introduced less than two hundred became laws.

Governor Eagle delivered his retiring message January 12, recommending the abolishment of the convict lease system, State control of convicts, removal of the State Prison, encouragement to manufactures, better protection against dishonest State officials, a State Board of equalization, reorganization of the militia, and better public roads.[36] Three days later Fishback was inaugurated and delivered an address which, except for its emphasis on education and good roads, had little bearing on the concrete problems facing the people. In fact the new chief executive had little part in the Legislative program.[37]

Amendment No. 2, requiring the payment of a poll tax, received 75,940 votes for to 56,601 against and the speaker declared it adopted, although it had not received a majority of the total vote, 156,192, and an appropriation was made to pay the newspaper for its publication in 1892. Two additional amendments were submitted to the people, No. 3 to empower county courts to levy a tax of not exceeding three mills for county internal improvements, and another to authorize the Governor to fill vacancies in township, county, district and State offices. County courts or county judges in vacation were empowered to appoint in certain cases commissioners of the public roads, highways and bridges, and the same courts might increase from five to ten the number of days each qualified person might be required to work on the roads and to levy a road tax in certain cases. Laws were passed to protect fish and prairie chickens, and the exportation of fish and game was prohibited. Qualifications for the practice of medicine and surgery were prescribed, and the importation or sale of unwholesome articles of food was prohibited. The law of 1891 prohibiting prize fighting was amended to make the fine for its violation from $1,000 to $2,500. For the protection of convicts it was made lawful for convicts or ex-convicts to testify as to the treatment of prisoners, the sanitary conditions, and the food provided for them at the penitentiary or at the convict camps. The Governor, the Secretary of State, and the Attorney-General were made a commission for the man-

33. *House Journal,* 1893, p. 35.
34. Herndon: *Outline of Executive and Legislative History of Arkansas,* p. 133.
35. *Southern Standard,* April 21, 1893.
36. *Gazette,* January 12, 1893.
37. *Gazette,* June 15, 1893.

agement of the penitentiary, and the inspector of convicts was replaced by a superintendent of the penitentiary. A general reorganization of State boards resulted in five boards composed of three State officers each. The manner of dissolving corporations was prescribed, legal proceedings against insurance companies regulated, and insurance companies required to make bond for not less than $20,000 for proper payment of claims against them. The assessment and collection of taxes were regulated and railroads were required to stop one passenger train daily each way at each station. The separate coach law of 1891 was amended to allow one partitioned coach for the separation of whites and blacks, to except freight trains and street railways from its operations, to allow sleeping or chair cars for both races, and to permit, in case of accident, the carrying of both races together to other coaches. Laws for the governing of cities of the first class were enacted, and the election of aldermen, clerks and attorneys in such municipalities was regulated.

The St. Francis Levee District was created and given certain lands. The act providing for the State geological survey was repealed; and consent was given for the United States to purchase or assume exclusive jurisdiction over lands in Pulaski County for a military post. School directors were empowered to purchase apparatus, school teachers were to be examined in nine specified subjects, county examiners were required to test each applicant for license to teach as to his ability to read the land survey of the State, the sale of sixteenth section lands was regulated, and an educational exhibit authorized for the Columbian Exposition.[38]

The several charitable, penal and educational institutions of the State were examined and, with the exception of the penitentiary, found satisfactory. Appropriations were somewhat more liberal than usual, reaching a total of $1,019,011.[39] The failure to outlaw the crop mortage was defended on the grounds that the low per capita mortgage indebtedness in the State was due to legislation in the interest of the people.[40] On the whole, the Populists could claim little relief at the hands of the lawmakers.

After the General Assembly adjourned the years of Governor Fishback's administration yielded something of significance. His party was heading almost bodily into the free-silver camp. While his avowed purpose was to place before the world the unrivaled opportunities which Arkansas offered to capital and immigrants, a large part of his thought turned to the social, religious and educational interests of the people. Never tiring in his efforts to advertise the State, he worked enthusiastically to bring about a convention of southern governors, and when that had been accomplished he felt that a world-wide interest in the State had

38. Acts of Arkansas, 1893, *passim.*
39. *Arkansas Gazette,* April 9, 1893.
40. *Arkansas Gazette,* August 12, 1893.

been kindled. While constructive accomplishment fell somewhat short of the Governor's publicity program, his administration shared in many measures of progress. He endeavored to carry out the will of the people as expressed in legislation.

Before the Legislature adjourned, civic-minded leaders succeeded in developing a strong interest in the World's Columbian Exposition. The Legislature of 1891 had failed to make an appropriation for a State exhibit at that exposition; and since the failure of an appropriation was attributed to the opposition of the farmers,[41] it was not considered wise to await Legislative action two years later. Hence resort was had to volunteer agencies. A mass meeting of prominent citizens at Little Rock requested Governor Eagle to call a convention of three representatives for each member of the House of Representatives to devise ways and means of properly advertising the State at the Fair. In response to the Governor's call the convention was held and organized the Arkansas World's Fair Association with a capital stock of fifty thousand shares of two dollars each. The Association was perfected on December 10, 1891, with Major John D. Adams as president of its board of directors. Within a month subscriptions had reached $16,000; and since it had been agreed to begin business when $10,000 had been subscribed the directors contracted with the Heidenreich Company of Chicago to construct for the Association a $13,375 building on the exposition grounds. On November 4, 1891, Mrs. Potter Palmer, president of the lady managers of the exposition, visited Little Rock in support of the enterprise. After a preliminary meeting at the Richelieu an elaborate reception was tendered the distinguished visitor at the Governor's mansion. From the mansion the celebrities gathered at the Capitol Theatre where choice orators and business men presented the importance of properly representing the State in the great exhibition.[42] At all of these meetings enthusiasm was high, the aim of the promoters being to advance the project far enough to induce the Legislature of 1893 to assume the financial burden of the undertaking.

Just before the Legislature met in 1893 the Association proposed to turn over to the State the building and collections already provided at the exposition grounds, on condition that provision be made to carry out the project. That proposition the lawmakers accepted, and the sum of $15,000 was appropriated to carry on the work. The Governor, by terms of the law, appointed a State board of directors for the World's Fair, to have charge of the building at Chicago, collect exhibits of the resources of the State, use the collections already in possession of the State University and certain State departments, procure collections made by coun-

41. *Arkansas Democrat,* April 22, 1891, and April 15, 1892.
42. *Arkansas Democrat,* November 4, 1891.

ties, and arrange them all for display.[43] The directors pushed their work energetically and provided exhibits which attracted favorable comment and awards of importance. Of the awards to the State, forty-two were to the educational exhibit, seven to apples, and three to cotton.

During 1892 Little Rock began negotiations with the Federal Government looking to an exchange of a thousand acres of land on Big Rock, across the Arkansas River from the city, for the old arsenal grounds within the city for a military post. The Legislature of 1893 ceded to the Federal Government exclusive jurisdiction over the site proposed, the cession was accepted, and the Federal authorities accepted the proposition. During 1893 the fort was constructed and named Fort Logan H. Roots, and the old arsenal grounds became a city park.

One of the significant steps of the early nineties was the organization of the St. Francis Levee District, authorized by the Legislature of 1893. The law of incorporation created a board of directors, donated to the district all the State lands within the boundaries described in the act, except sixteenth section lands, and empowered the Governor to appoint directors of the board and fill vacancies thereon. The district included all the lands lying within the St. Francis basin and subject to overflow from the Mississippi River. The territory included about fifteen hundred square miles and covered wholly or in part eight counties. Each county concerned had three directors for the district. A supplementary act more clearly defined the duties and powers of the district as a corporate body. The first members of the board were named in the act of incorporation. No one of the three acts concerned with the project received the approval of the Governor, nor did he veto any one of them. The board began its official career on the second Tuesday of May, 1893, perfecting its organization, and pushed its construction program vigorously. As a result of the district's activities approximately a million acres of land were reclaimed, and the board soon became a political factor of serious consequence. Its economic importance to the State has been tremendous.

During the year 1893 demands for reform in the State Penitentiary reached a climax. Under the old lease system conditions had become notoriously bad. The Coal Hill horrors had been so widely published and so generally believed that the public demanded a change. Epidemics which seemed to baffle those responsible for the health of the prisoners levied heavy toll on the convicts. The Legislature, as we have noticed, created a penitentiary board consisting of the Governor, the Secretary of State, and the Attorney-General with ample jurisdiction to organize and manage the institutions. When the new board took charge "the convicts were turned over to the State by the late lessees in a state of rags and

43. Acts of Arkansas, 1893, p. 70.

filth." Moreover, the prison itself was "so dilapidated and filthy as to menace the health of the city."[44] The board assumed control of the labor in May of 1893, too late to make advantageous labor contracts, and in the following year a cyclone seriously damaged one of the prison buildings. Nevertheless, a legislative committee of 1895 reported the new system as highly satisfactory and financially successful.[45] The change was a notable achievement.

Prior to 1893 the State's charitable institutions had been under separate boards of five members each, a majority of whom were residents of Little Rock. On April 5th of that year a law was approved empowering the Governor to appoint biennially a board of six trustees, one from each Congressional District, to manage the School for the Blind, the Deaf Mute Institute and the Insane Asylum. The new law was passed in response to a demand that the management of the institutions concerned by more nearly State-wide. After a trial of two years, and in spite of storm losses to the amount of $26,764, the institutions were reported as in a flourishing condition and operated at a financial saving of $30,000 a year. The Legislative visiting committee of 1895 found the asylum well managed, but reported an unusually heavy death rate due to lack of proper sewer facilities and, perhaps, to inferior meats served the inmates.

One of the last problems to which Fishback turned his attention was the adjustment of the debt claims between the State and the United States. He investigated all phases of the question and visited Washington to hasten the negotiations to an early conclusion. He had what appeared to be the indisputable figures claimed by both governments, but it seemed difficult for him to get away from the conviction that more was due Arkansas than the evidence indicated. Apparently he feared that in some way the State might pay a part of certain bonds which he considered unlawful.[47] The attitude was characteristic of the man.

After midsummer of 1893 there was little interest in the administrative measures of the Governor. The lack of popular appreciation of the chief executive's policies was due in a large measure to that officer's own course. Opposed from the day of his nomination by a considerable faction in his own party, and aware of the rising popularity of the Attorney-General, the Governor early in his administration developed an ambition to succeed James H. Berry in the United States Senate. Berry's friends began a bitter fight on the Governor, and James P. Clarke quietly captured the next Democratic convention.

By 1894 the political situation in the State was much confused. Fishback and his friends joined the Populists in a demand for the nomination of United States Senator by primary election, and on that issue the Dem-

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44. Message, 1895, p. 113.
45. *Senate Journal*, 1895, p. 875.
46. *House Journal*, 1895, 1167.
47. *House Journal*, 1895, p. 124.

ocrats were hopelessly divided. The Republicans supported the Populists in denunciation of the poll tax feature of the State election law. Under the press of unemployment labor was restless and its temper bad. The situation was aggravated by the attention given to the reorganization of the State Militia. The climax was reached in July when 630 shop men at Baring Cross went on a strike and the Governor called out the militia to prevent disorders.[48] The Populists, already divided over the question of fusing with the Republicans, sympathized with the strikers, and thus heightened the spirit of discontent. Middle-of-the-road Populists demanded a straight and full party State ticket on clear cut Populist issues, while a smaller portion of their partisans favored a combination with the Republicans. The Democrats, divided over the Senatorial race and on the silver question and Cleveland's administration, faced a crisis. They needed both candidates and a platform which would check the drift towards the Populist's fold.

On March 16, 1894, the Democratic State central committee held an important meeting at Little Rock. In addition to calling the State convention on June 28, it chose Little Rock for the convention city and rejected a proposition to recommend to counties to hold Senatorial primary elections. This last action, while avowedly on the theory that the people in any county might express their choice for senatorial candidates by conventions or primary elections, was clearly a step of the conservative democracy in Senator Berry's interest, if he needed it.[49] Earlier in the year inquiries revealed the fact that only four committeemen favored the primary election.[50] A few counties finally decided to hold primaries, and in such cases each Senatorial candidate made a thorough canvass.

The Democrats gathered June 28 at the Glenwood Park Theatre, elected Hon. L. A. Byrne temporary chairman, and began sessions in perfect harmony. After Gen. J. C. Tappan had been elected permanent chairman over Oscar L. Miles, organization was effected without contest. Attendance was large, enthusiasm was strong, the band played Dixie, and there were no contesting delegations. The boast of party leaders that the preconvention canvass would clear away all party troubles and the convention would do nothing more than register the popular will was nearly fulfilled. All divisions over national issues were frowned upon.

James P. Clarke was nominated for Governor by acclamation; and nominees for the other State offices were selected without serious contest, except in the case of land commissioner where it required thirty-three ballots to name J. F. Ritchie. The complete ticket carried H. B. Armistead for Secretary of State, C. B. Mills for Auditor, Ranson Gulley for Treasurer, E. B. Kinsworthy for Attorney-General, Junius Jordan for

48. *Gazette*, July, *passim*.
49. *Gazette*, March 16, 1894.
50. *Gazette*, January 24 and 28, 1894.

Superintendent of Public Instruction, W. G. Vincenheller for Commissioner of Mines, Manufactures and Agriculture, B. B. Battle for Associate Justice, and J. E. Riddick for the unexpired term of Justice Mansfield.

The platform opposed the protective tariff, endorsed the income tax, favored the free and unlimited coinage of silver at the ratio of 16 to 1, condemned the issue of bonds by the Federal government in times of peace, commended free public schools and local option on the whiskey question, opposed Federal legislation to control elections, and congratulated the people on the faithful and economical government of the State under the Democrats. The income and the silver planks were heartily applauded. A resolution by A. H. Sevier to endorse Cleveland's administration was defeated. The convention went on record as favoring legislation to prevent the immigration of anarchists and enemies of civil government to this country.[51]

Populists of both factions were in a difficult position. Middle-of-the-roaders opposed fusing with any other groups, and insisted on a full party State ticket on a clear cut Populist plaform. Fusionist Populists felt that the Democrats could be defeated only by a combination of all opposition elements, but the better part of the Republicans were opposed to further combinations except on Republican terms. Hence the straight Populists went their way; and the fusionists drifted to the Republicans in such spirit as to force on the Republicans a coalition.

July 20 Populists of both factions swooped down on Little Rock. Democratic papers described the common delegates as arriving in ever lengthening wagon trains at the wagon yards where reduced rates had been provided, while a handful of their leaders were lodged at the hotels. Conservative feeling was further reflected in reports that wagons loaded with hosts of men, women and children were passing on their way to West End Park where the convention was to be held. After the convention was organized with J. W. Dollison as chairman, Democrats thought "it composed of many good citizens of Arkansas, whose only fault, or rather mistake, has been that they have listened too much to the professional political agitators, whose personal disappointments have been crystalized and made to appear as public grievances."[52]

While credentials were not scrutinized, it was claimed that sixty-three counties were regularly represented and that other counties had spokesmen in individual citizens present. Except for the opposition to fusing with the Republicans, the proceedings were harmonious. On the State tickets were nominated D. E. Barker for Governor, H. N. Beam for Secretary of State, T. J. Andrews for Treasurer, A. J. Nichols for Auditor, J. A. Meek for Attorney-General, O. S. Jones for Land Commissioner, S. H. Nowlin for Commissioner of Mines, Manufactures and Agriculture,

51. *Gazette,* June 28 and 29, 1894.
52. *Gazette,* July 21, 1894.

and J. P. Carnahan for Superintendent of Public Instruction. The selection of candidates for two places on the Supreme Court bench was referred to the State central committee. Except for the gubernatorial candidate, the ticket was a clear bid for coöperation with the Republicans.

Among the thirty-seven planks of the platform adopted were declarations for the free and unlimited coinage of silver at the ratio of 16 to 1, the election of the President and vice-President of the United States for one term only, restrictions on undesirable immigrants, a State board of arbitration for the settlement of disputes between capital and labor, free schools and school books at State expense, the establishment of a house of correction, and the consolidation of State and national elections. It vigorously opposed the State election law and the giving of public lands to levee corporations. The Democratic party was denounced for repealing the silver purchase law of 1890, and the working of convicts on the public roads was demanded. A State central committee was chosen and the sum of $60.00 was raised to defray the expenses of the convention.[53]

Close on the adjournment of the Populists came the Republican convention, guided by the steady hands of Powell Clayton, W. H. H. Clayton, J. B. Friedheim and J. M. McClintock. The body was organized at noon July 24 with Henry M. Cooper presiding. As arranged in the early morning caucus Harmon L. Remmel was made both temporary and permanent chairman. Twenty-four counties were not represented, and the colored element was conspicuously slim. The proceedings, especially after the outstanding party orators had spoken and it had been decided to nominate less than a full state ticket, were without enthusiasm.

When the time arrived for nominations for State officers Colonel W. H. H. Clayton declared he would not present the name of Judge Thomas Boles, the choice of the northwest counties for Governor, because that gentleman favored a full Republican ticket. Then H. L. Remmel was named for Governor by acclamation and made a rousing speech, discussing business conditions throughout the country, endorsing President Cleveland's position on the strike, and demanding that his party cut loose from combinations and make a straight party fight. Since general Clayton had denounced the Populists as friends of the strikers and believed that the fusion of 1890 had not accomplished any good for his party, and since he knew the attitude of Remmel and the Republicans of the northwest, his consent to a partial ticket with a view to fusion is difficult to understand.[54]

The platform adopted praised Republican administration of the national government, lauded the policy of protection, called for a parity of gold and silver through legislation, and charged the Democrats with unjust treatment of the late Union soldiers. On State questions it

53. *Gazette,* July 20 and 21, 1894.
54. *Gazette,* July 25 and 26, 1894.

denounced the State election law, asserted that Amendment No. 2 had not been legally ratified, declared the Republicans were not properly recognized on the boards of State institutions, and endorsed the public school system, the State University and charitable institutions. A resolution was passed urging Republicans to vote for Remmel but for no other State officer whatsoever.[55] It was not softened for the Populists.

Immediately after the adjournment of the last party convention the three State central committees agreed on a joint discussion of the issues at thirty-two important towns, beginning at Conway July 31 and closing at Little Rock September 1.[56] The schedule was followed closely and the people flocked in great numbers to the "speakings." In the opening speeches the gubernatorial candidates presented the claims of their respective parties and indicated the lines on which they proposed to attack their opponents. Aside from Remmel's discussion of national issues the interest of the campaign centered about Clarke's attack on Barker's political record and that gentleman's defense. Remmel showed a disposition to rid himself both of the record of his party in the State and of all the imputations that Powell Clayton was his political boss. Clarke reviewed the Republican record with deadly effect, warned the people that there had been no change in the local Republican party, and held steadfastly to the contention that the only thing Barker and his Populists could hope to accomplish was to restore to power in the State the political spoilsman who had plundered the people between 1868 and 1874. Barker, honestly convinced of the justness of his cause and deeply conscious of the economic handicaps his followers were suffering, chafed under Democratic imputations of insincerity and dishonesty and Republican willingness to seek Populist support for his own opponent without supporting either the candidate or the principles of that party. His opponents charged him with radicalism and provoked him to lose his temper.

Behind Clarke stood most of the newspapers of the State, a vast majority of the business men, and practically all of the capable politicians. At Eureka Springs, Clarke, in an effort to draw Populist support from Remmel and Barker, made a bitter attack on Powell Clayton as the boss of both of his opponents. Fifteen choice spellbinders spoke in one hundred and three towns and villages for the Democratic ticket.[57] In each county all three parties made a thorough canvass. As the election drew near a Democratic editor boasted that his party would have in the field as many as fifty orators.[58] In pamphlet form Clarke's Conway speech was distributed throughout the State. Grand rallies, picnics, barbecues, and club meetings multiplied as August advanced. The Democrats ap-

55. *Gazette,* July 24 and 25, 1894.
56. *Gazette,* July 28, 1894.
57. *Gazette,* August 14, 1894.
58. *Gazette,* August 18, 1894.

peared to realize that it was imperative that the Populists be crushed on September 3d. And as an important feature of the campaign Democratic party workers bent every effort to have members of their party secure poll tax receipts.

At the State election on September 3d, the vote for Governor gave Clarke 74,809, Remmel 26,085, and Barker 24,541, and J. W. Miller, the Prohibitionist candidate, 1,551. For county and local officers the Populists did better, but in the election for the General Assembly they won but nine seats.[59] Constitutional Amendment No. 3 was defeated by 32,774 to 51,420 and Amendment No. 4 was declared carried by 43,446 to 40,207.[60] While the Democratic vote was approximately 19,000 below the average in the last three gubernatorial elections, the combined opposition vote sustained a decline of more than 22,000 for the same period. Populists and Republicans attributed this result to Democratic administration of the new election law, and Democrats explained it on the grounds that an honest enforcement of that law had reduced the Republican vote and that the Populist appeal had simply failed to mislead the voters.

After the State election the Congressional canvass was of distinctly quieter tone. The Democratic candidates for seats in Congress were considered safe. Here and there a locality witnessed the usual campaign activities, but the Populists and Republicans could not overcome the defeat of September 3. P. D. McCulloch, John S. Little, Thomas C. McRae, William L. Terry, Hugh A. Dinsmore, and Robert Neill, all Democrats, won seats in Congress on November 6, 1894.[61]

59. *Gazette,* September 14, 1894.
60. *House Journal,* 1895, pp. 188-89.
61. Herndon, Vol. I, p. 346.

CHAPTER XXV.

THE RISE OF THE ONE GALLUS DEMOCRACY.

The thirtieth regular session of the General Assembly met at Little Rock, January 14, 1895, and organized by electing Gibson Witt President of the Senate without opposition and J. C. Colquitt Speaker of the House on the twenty-fourth ballot. On the fourth day of the session the message of the retiring Governor was read, and the day following Governor Clarke delivered his inaugural address as a message to the Legislature. With practically his entire thought centering on the advisability of holding a convention to revise the State constitution, the new Governor advocated a four-year one term for the chief State officers, quadrennial sessions of the Legislature, the substitution of a fund levied on officers for personal bonds by State officers, reduction and equalization of taxes, changes in legal procedure to promote justice, privilege taxes, exemption of both ex-Confederate and ex-Union soldiers from the poll-tax provision of the election law, a period of tax exemption for all manufactures except trusts, consolidation of State and National elections, and provision for the State debt.[1] These measures, he thought, would relieve the people of much of the current depression and restore a measure of the State's former prosperity.

Senator James H. Berry was reëlected with only a few votes in opposition.[2] A bill providing for a constitutional convention passed both Houses, but was vetoed on the ground that it did not make the holding of such convention mandatory without further action of the Legislature.[3] An appropriation of $10,000 was made for a State exhibit at the Cotton States and International Exposition in Atlanta, and that amount was borrowed from the "direct tax fund" for the immediate use of the Commissioner of Mines, Manufactures and Agriculture to carry out the project. Acts were passed to require transportation companies to give free passage to shippers of livestock when shipped by the carload and to permit railroads to give free passes to sheriffs. Such companies were prohibited from charging a higher rate for double-decked carloads of sheep than for similar shipments of other livestock, and their charges for excess baggage on roads longer than five miles were carefully limited. While considerable opposition was shown to all transportation companies not chartered in the State, charter privileges of railroads which had not fully complied with the terms of their charters were liberally extended. Moreover, a law passed authorizing corporations to reduce their capital stock.

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1. *House Journal,* 1895, pp. 194-221.
2. *House Journal,* 1895, p. 372.
3. *Arkansas Gazette,* April 28, 1895.

Laborers in mines and quarries were given liens on the property with which they worked, a general laborer's lien law was enacted, and mechanics were given liens on work performed. For the benefit of farmers a bill passed to require a chemical analysis of all fertilizers selling for more than ten dollars a ton, and ten cents a bale was fixed as the maximum charge for weighing, sampling and marketing cotton. The selling of articles marked "sterling," "coin," or "coin silver" of less than legal genuineness was made a misdemeanor, and the legal registration of brands and trademarks was provided. Primary elections were legalized, and the board of penitentiary commissioners was reorganized to make it consist of the Governor, the Secretary of State, the Attorney-General, and the Commissioner of Mines, Manufactures and Agriculture. A tax was placed on circulating notes of national banking associations, the legal rights of married women defined, cities of the first class authorized to elect annually police matrons, counties empowered to refund their bonded indebtedness, and assessors and collectors required to indicate the race of each person liable for taxes.

During the session Col. William J. Bryan and ex-Senator Ingalls visited the Legislature, made short talks, and mingled with the members.

The outstanding accomplishment of Governor Clarke as a Chief Executive was the progress made towards a final settlement of all differences between Arkansas and the Federal Government arising out of claims held by the latter against the State. In 1889 the Legislature conferred on the Governor power to represent the State, and in 1894 Congress clothed the Federal Secretary of the Treasury and Secretary of the Interior with authority to act for the National Government. A short time before his retirement Governor Fishback visited Washington and began the investigations considered necessary to reach the facts involved in the case, and the Federal departments concerned appointed George C. Ross and Burton T. Doyle to make investigations on the other side.

When Ross and Doyle made their report, Governor Clarke went to Washington, February 19, 1895, and reached a tentative agreement with Secretaries Hoke Smith and John G. Carlisle. It was admitted that the Federal Government had valid claims against Arkansas, including principal and accrued interest, amounting to $1,611,803.61, and Ross and Doyle recommended that the State be allowed on its claims against the United States the sum of $1,451,231.61, leaving $160,572 for the State to pay the Federal Government. This obligation the State was to meet by paying $572 within thirty days after the agreement had been approved and one hundred and sixty $1,000 bonds with interest from January 1, 1895, and payable by 1900.

This agreement the Legislature approved on February 27, 1895. Congress now passed a bill to approve, but required Arkansas to relinquish and quit-claim to the United States, and confirm to their grantees,

273,000 acres of land claimed by the State, but already patented by the Federal Government to three railroad companies, one of which had become the St. Louis, Iron Mountain and Southern by 1895. The Legislature of 1897, by a concurrent resolution, passed over a vigorous executive veto, approved the settlement.

Throughout the years 1895 and 1896 the money question was the chief topic of public discussion. Col. J. T. W. Tillar, one of the most influential business men in the State and a leader in his party, declared the silver men would not desert the Democracy unless they found themselves deserted on that issue.[4] The advocates of the free and unlimited coinage of silver and gold at the ratio of 16 to 1 easily captured the Democratic party. A Little Rock Bimetallism League was formed and conducted an active campaign of propaganda.[5] A large majority of the Democratic State Central Committee supported the movement, and Congressman T. C. McRae urged that the money question be fought out within the party. Early in August, 1895, Col. William J. Bryan visited Ft. Smith in support of the silver cause, and both Governor Clarke and ex-Governor Fishback joined him in making a memorable day for silver.[6] Soon thereafter the free-silver editors of the State held an impressive convention in the capital city, and Congressman W. L. Terry came out for free silver.[7] Near the middle of August Secretary John G. Carlisle accepted an invitation of the Little Rock Board of Trade to speak on the money question.[8]

While the silverites were planning to capture the Democratic party, their opponents organized the Little Rock Sound Money Club and announced their purpose to remain in the Democratic party and defeat the policy of silver monometallism.[9] Governor Clarke was cautious in taking a stand on the money question, perhaps because he was making up his mind on whether to run for a second term for Governor or oppose Senator James K. Jones for the United States Senate. However, most of the aspirants to public office soon espoused the silver cause, while many prominent business men stood out vigorously for sound money.

In the midst of the agitation over the silver question came an interesting tilt between the Governor and certain citizens of sporting inclinations in the city of Hot Springs. It was reported that Chambers and Company had agreed to pay $25,000 to stage in that city a prize fight between Corbett and Fitzsimmons. A month before his inauguration Clarke announced that there would be no prize fight within the limits of the State while he was Governor.[10] And James P. Clarke usually meant more than he said.

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4. *Arkansas Gazette,* November 30, 1894.
5. *Arkansas Gazette,* September 7, 1895.
6. *Arkansas Gazette,* August 18, 1895.
7. *Arkansas Gazette,* August 8, 1895.
8. *Arkansas Gazette,* August 17, 1895.
9. *Arkansas Gazette,* August 22 and September 4, 1895.
10. *Arkansas Gazette,* December 14, 1894.

Late in 1895, as the date for the fight drew near, and three of the principals came on to the vapor city for training purposes, the Governor moved with precision and firmness. He declared the statutes sufficient and assured the people that he would not call the Legislature into extra session to prevent the fight, even if it should be attempted to stage the combat in the State House yard.[11] He then took up the matter with Judge Duffie, who called Sheriff Haupt, of Garland County, and instructed him in the law.[12] Less than a week later the Chief Executive went to Hot Springs and announced his determination to prevent that fight, even if he needed to call out the militia to carry out his order.[13] On the first day of November the "Gazette" said: "All hail to Governor Clarke. He has saved the State from disgrace and without the aid of the militia and without calling an extra session of the Legislature." The Governor had fully met the expectations of the people.

As the election of 1896 approached the temper of the farming classes became bitter. Uninformed on the operation of the economic forces affecting the prices of their commodities, they could not understand the declining prices which seemed destined to go on forever. Since 1890, and before, they had been told that it was due to the hostility of the bondholders, the trusts, the National banks, and the creditor classes generally to silver. Hence they were demanding that something be done for silver. To this they added demands for better public roads, the creation of a railroad commission, uniform text-books for the public schools, the use of convict labor in the improvement of public highways, and a modification of the election law.

While the masses were registering their demands, leaders in all parties were concerned with the problem of party harmony. The Republicans, hopeful of electing their National ticket in November, began early and held many conferences throughout the State.[14] General Clayton espoused the cause of McKinley and announced that Arkansas delegates to the National Republican Convention would go instructed for him,[15] and the State convention did his biddings. The only plank of interest in the platform adopted was the endorsement of bimetallism with straddling qualifications. Before the date arrived for the second party convention it was agreed that Col. Harmon L. Remmel should receive the nomination for Governor.

Against the judgment of many leaders in the party the Democrats decided to hold but one convention, preferring to work out their party troubles without bringing the jarring elements into close contact. The Jackson Day dinner at the Capitol Hotel on the evening of January 8, 1896, was equal to the grandest affair the Old Hickory Club had ever

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11. *Arkansas Gazette,* October 9, 1895.
12. *Arkansas Gazette,* October 11, 1895.
13. Herndon, Vol. I, p. 348, *Arkansas Gazette,* October 17, 1895.
14. *Arkansas Gazette,* January 17, 1896.
15. *Arkansas Gazette,* May 26, 1896.



COURT HOUSE, MARIANNA

staged. That club was again host, and the program and the feast were excellent.[17] Following that grand rally the chairman of the Democratic State Central Committee called his committee to meet at Little Rock March 11. On the appearance of that call the "Arkansas Gazette" exclaimed: "Long live Democracy! Down with the bolters! This is the slogan of the Democrats in Arkansas." At the committee meeting a call was issued for the party State convention to meet at Little Rock June 17.[18]

Already the race between Governor Clarke and Senator Jones for the latter's seat in the United States Senate was far advanced and had usurped first place in public attention, but now of a sudden Clarke retired from the race, giving as his reason reports that in counties where primaries had been held improper means had been used to defeat him. He thought it better for all concerned that he retire from the race rather than go into an investigation of the charges of irregularities. With Clarke out of the senatorial contest interest shifted to the gubernatorial race.

While candidates for Governor announced early, only two of them succeeded in making substantial headway, James H. Harrod and Daniel W. Jones. For approximately three months these men conducted a spirited joint canvass. In the debate at the State House on February 20, Jones virtually asserted that he would not support the Democratic party on a sound money platform, while Harrod declared he was willing for each Democrat to choose his own position on the money question.[19] Near the middle of May and at the peak of the canvass Jones declared that he would not support a gold candidate. Harrod in emphasis of his own allegiance to the Democracy declared: "I am in favor of free silver at 16 to 1, but if Rothchilds writes the platform and the devil is the nominee, I am for them."[20] From the day of these declarations Jones gained steadily, until before the 17th of June it was evident Harrod had been defeated.

That the entrance of the primary election into party politics greatly reduced the importance of the party convention was clearly demonstrated June 17, 1896. The Democratic convention of that date was described as the greatest, the most enthusiastic and harmonious party assemblage in the State's history, but the fact that both the senatorial and gubernatorial contests had been decided left little of importance to be done. A vast majority of the delegates strongly favored free and unlimited coinage of silver at the ratio of 16 to 1, and a smaller majority favored instructing the delegates to the National Democratic Convention to support R. P. Bland for nominee for the Presidency. The platform, in addi-

17. *Arkansas Gazette,* January 9, 1896.
18. *Arkansas Gazette,* March 12, 1896.
19. *Arkansas Gazette,* February 20, 1896.
20. *Arkansas Gazette,* May 13, 1896.

tion to the money plank, opposed governmental issuance of interest-bearing bonds in time of peace, denounced the repeal of Sherman silver purchase act, and condemned the national banking system. It favored redeeming the government's obligations in gold or silver, the income tax, good roads, public schools, the creation of a railroad commission, and a uniform day for party primary elections and local conventions.[21]

The Prohibitionists split on the silver question, but both factions supported J. W. Miller for Governor.[22]

The last convention of the year was that held by the Populists at Little Rock July 15. Since the differences between the Fusionists and the Middle-of-the-Roaders had become irreconcilable, little enthusiasm developed. A. W. Files was nominated for Governor by acclamation, but no other candidates were put out. The only new platform declaration over those of 1894 was a ringing approval of the "Initiative, Referendum and the imperative mandate."[24]

The gubernatorial campaign opened at Annieville, Lawrence County, on the day Files was nominated. For seven weeks the contest ran along lines similar to those followed in the campaign of 1894. The issues discussed were of two years previous, the temper of the people was slightly worse, the only difference being measured by the difference between James P. Clarke and his methods and Daniel W. Jones and his methods. The creation of a railroad commission, uniform school text-books, modification of the State election law, the payment of the debt the State owed the public school fund, convict labor on the public roads, and a constitutional convention were discussed earnestly, but little difference between the candidates came out on any issue.

September 7 the State election was held. For Governor the vote stood 91,114 for Jones, 35,836 for Remmel, 13,990 for Files, and 851 for Miller. The other Democratic candidates varied little from Jones' majority. The only changes since 1894 were: A. C. Hull, Secretary of State; Clay Sloan, Auditor; H. G. Bunn, Chief Justice, and S. P. Hughes, Associate Justice.[25] At the November election all the Democratic candidates for Congress were elected, and the Democratic Presidential ticket defeated its Republican rival by 110,103 to 37,512 votes. The Democratic vote was now greater by 16,305 than at the last preceding election, the Populists had lost 10,550, and the Prohibition showing shrank to only 700 votes. The Populists were returning to their old party affiliations. Two years later their candidate, Morgan, polled 8,332 votes and in 1902 A. W. Files, again their standard bearer, received but 3,641 votes. By that time the Democratic party, under the spell of Jeff Davis, had been so transformed that it met the needs of most Populists. The most inter-

21. *Arkansas Gazette,* June 17 and 18, 1896.
22. *Arkansas Gazette,* May 7, 8, July 5, 1896.
24. *Arkansas Gazette,* July 17, 1896.
25. Herndon, I, p. 350.

esting feature of this election was the vote received by the Republican candidate for judicial offices. For Chief Justice of the State Supreme Court Jacob Trieber received 61,862 votes to 95,754 votes for H. G. Bunn, and O. D. Scott received 79,955 votes for Associate Justice against 97,289 votes for Simon P. Hughes.

In the election of Jones the conservative Democracy lost its grip on the State; it was completely routed four years later in the election of Jeff Davis to the Governor's office. Jones declared that he preferred free silver to allegiance to a conservative Democracy, his party went with him, and through his four years the rank and file drifted still farther from conservatism. The economic depression before the Spanish-American War, the social and economic changes incident to that conflict, and the cross-currents of personal ambition enabled Jeff Davis to present himself as the savior of the masses from the oppression of the privileged classes.

The Legislature of 1897 organized January 11, with General J. C. Tappan as Speaker of the House and W. L. Moose as President of the Senate. While the presiding officers were elected without opposition, it required four days to select the subordinate officers of the House. Twenty-four ballots were required to choose a sergeant-at-arms in the House.

In his retiring message, delivered in joint session January 14, Governor Clarke reviewed his efforts to bring about a final adjustment of the differences between the Federal Government and the State Government, and attributed the delay in final settlement of that question to the lobby of the Iron Mountain Railroad. Governor Jones delivered his inaugural address in the form of a message to the General Assembly January 18. In that communication the Chief Executive felt that there had never been a period in which so much wisdom was required to find relief for a hard pressed people. As he viewed the situation the chief cause of the ills afflicting the people was the departure from the financial policy of the fathers. In other words, most of the ills of the country were traceable to the failure to commit the country to a silver basis.

The day following the inauguration of the new Governor Senator James K. Jones was reëlected to the United States Senate by 114 votes to 9 for J. R. Sovereign, the Populist, and 3 for Powell Clayton, the Republican. The proceedings were rough from the start, and only fifty-five general acts were passed within the regular session of two months. Of those measures only the act to prevent combinations of trusts and corporations in Arkansas and the act to prevent irregular conduct at primary elections and conventions were of marked importance.

April 10 the Governor called a special session of the General Assembly to convene sixteen days later. Among the purposes of the extra session were the making of appropriations for the State departments,

support for the charitable and educational institutions, the creation of a railroad commission, measures of relief for sufferers in districts stricken by drought or overflows, provision for building State railroads by convict labor, provision for the construction of "good roads and free turnpikes," and the amendment of the general election law and the law regulating the manufacture of native wines.

The output of both sessions was composed largely of local measures. Although the Presidential election of the previous year had gone against the free coinage of silver, a vast majority of the legislators felt that the settlement of that issue had only been postponed. A joint resolution in the House of Representatives proposed to request the State's senators and representatives in Congress to urge an issue of $500,000,000 in legal tender paper money to be prorated among the states and territories on a population basis for the purpose of constructing roads and bridges.[27] Out of the same temper came an invitation to the Hon. William J. Bryan to visit the House on a day of his choice. March 9 Mr. Bryan came, and the House adjourned from ten to two o'clock to hear him on the issues of the day.[28]

The ex-Confederate soldiers fared better at the hands of the Legislature from this session. A law now passed requiring the State Treasurer to pay annually $75 to every blind indigent ex-Confederate, a resident of the State one year and not an inmate of the Confederate Home. An appropriation of $11,540 was made for the two-year period as support of the Confederate Home, and the sum of $55,000 was set aside for pensions. Beginning with this session and continuing through the Davis period, with a few marked exceptions in each session, the constructive legislation related to railroads, trusts, corporations not chartered in the State, the insurance business, State lands, problems affecting agriculture, and the State debt. Beginning now and continuing through legislative sessions and four gubernatorial campaigns—one in which Jones was reëlected on his record and three in which Jeff Davis swept the State on his appeal to the masses—runs a legislative temper clearly plebeian. While local and special legislation formed the great bulk of legislative production during this period, the lawmakers struggled hard to curb through statutes every form of rapacious big business.

As between a popular demand for rigid regulation of railroads and a business demand for an increase in transportation facilities by encouragement to railroads the lawmakers trod a thorny path, checked and thwarted on every turn by an intelligent and masterfully directed railroad lobby.

In 1897 charters of all railroads which had within the last eighteen months done substantial work, but had not completed the five miles

27. *House Journal,* 1897, p. 52.
28. *House Journal,* 1897, p. 169.

required of them by law, and which would, within thirty days from the enactment of the law under consideration, complete the required mileage, were extended for one year The Governor, the Auditor and the Attorney-General were constituted a board with power to build and operate State railroads and telegraph lines. To encourage the Mississippi River, Hamburg and Western Railway Company a grant of one thousand acres of swamp or forfeited lands was made for each mile of such road completed between the Mississippi River and the town of Hamburg. Land grants were made to the Springfield, Little Rock and Gulf Railway Company. Laws were passed for the protection of railway conductors, to empower railroads to protect passengers against fraud, to prevent overcharges by railroads, and to require published schedules of charges by railroads, telegraph and express companies.

Two years later the General Assembly returned to the subject of railroads with more determination. Against the machinations of the lobby measures were then enacted regulating the assessment of railroad property, damages sustained by baggage in the possession of railroads, responsibility for stock killed by railroads, and the extention of railroad charters. In increasing numbers did laws appear requiring trains to stop at unimportant places, the construction of depots, and provision for the comfort of passengers. But most important was the creation of a State Railroad Commission. For the next three legislative sessions measures for the regulation of railroads increased in number and meticulous detail, while the lobby endeavored to block every proposition considered embarrassing to the railroad interests. In 1903 the powers of the railroad commission were enlarged, and in 1905 a tax was placed on private cars operated on lines within the State.

It appears that through this period much wholesome legislation was blocked in the Senate by the lobby. It was charged that this was especially the case with questions affecting railroads, insurance companies, tobacco companies, and concerns interested in the sale of school books. Against the influence of ex-Governor Clarke and Governor Jones, supported by the "Arkansas Gazette," the lobby forced through the General Assembly of 1897 acceptance of the settlement with the United States involving the loss of 273,000 acres of land to the State.[29]

The same ten years witnessed the climax of anti-trust sentiment in the State. The Legislature of 1897, against the combined influence of the railroads, insurance companies and corporate wealth generally, working through a powerful lobby, enacted a mild anti-trust law. Two years later a stringent act was passed against pools, trusts and conspiracies to control prices. At the same session acts were passed carefully stipulating conditions on which foreign corporations might do business in the State, regulating the issuance of fire insurance policies, affecting the agents of for-

29. *Arkansas Gazette,* June 17, 1897.

eign corporations of every description, and providing compensation for counsel in the enforcement of laws against foreign corporations. After the lapse of another two years the lawmakers renewed the attempt to place adequate legal restraints on insurance companies and foreign corporations. In 1903 as many as five acts were passed to regulate aspects of business done by corporations, and from the last General Assembly of the Davis period came five acts in further regulation of corporations and five acts affecting vitally the insurance business.

Passing strange was the interest shown in measures concerning problems related to agriculture. The creation and regulation of levee, fencing and quarantine districts, and the enactment of stock laws appeared in increasing numbers with succeeding legislatures, but practically every such measure was local in its application and none of them reflected any settled policy towards agriculture. The Legislature of 1899 passed a law regulating the weighing and marking of cotton.

With the legalization of the primary election party politics passed rapidly through a marked transformation. The minority parties were little affected, but in the Democratic party emphasis shifted from the State convention to the nominating primary elections. From manipulating local conventions and delegates to State conventions aspirants to office turned to popular appeals to the masses. The primary election did not become complete in all of its aspects with its first legalization, but it began its work immediately.

Political activities of 1898 were somewhat overclouded by Federal foreign relations, treated elsewhere in this work, and by local disasters of serious consequence. In April of that year a disastrous overflow came and continued for a month. In the eastern sections of the State levees broke at strategic points and large sections of the best farming lands in the State were flooded for weeks. Railroad beds were washed away, and towns and villages isolated and endangered. Relief work began at once, organized relief was pushed rapidly throughout the distressed region, and the Federal Government sent provisions for the destitute and boats for the rescue of the stranded. Already, January 11 of that year, a tornado had swept Ft. Smith, killing fifty persons, injurying many more, and destroying property to the value of a million dollars. Before the political machinery reached full swing there was promise that these disasters were to be followed by a severe drought. On the whole there was among the masses little interest in a State campaign.

The Democratic State Central Committee met February 22, set May 7 for the party primary elections, called the party State convention to meet at Little Rock June 21, and passed a resolution that the candidate receiving a majority of votes for any office at the primaries be the nominee of the succeeding convention, and that in case no candidate received

a majority in the primaries the convention make the nomination.[30] There followed much talk of a preliminary convention for ironing out differences within the party, but it was decided that one convention was enough.

With the Republicans the situation was different. The advocates of silver within that party met March 4 and called a convention of silver Republicans to meet in Little Rock March 18. That call was signed by Judge Thomas Boles. The regular Republican convention was called to meet in Little Rock June 29. It was claimed that the younger element was in control of the party, that the silver advocates would be ignored, and that the policies of the national administration would be given right of way.

In the Democratic primaries the successful candidates were: Daniel Jones for Governor, Alexander C. Hull for Secretary of State, Clay Sloan for Auditor, T. E. Little for Treasurer, Jeff Davis for Attorney-General, J. J. Doyne for Superintendent of Public Instruction, J. W. Colquitt for Land Commissioner, Frank Hill for Commissioner of Mines, Manufactures and Agriculture, and J. E. Riddick for Associate Justice.[31]

June 21 the Democratic State Convention met according to call, elected James P. Clarke president, ratified the results of the recent primaries, and adopted a platform. There developed a hard fight over the details to be embodied in the qualifications for voting in the party primaries, but there were no dissensions over the platform. That document endorsed the principles of the National Democracy, the Monroe Doctrine, the Spanish-American War, and called for payment of the war debt without issuing interest-bearing bonds. It favored the construction of an interoceanic canal along the Nicaraguan route, the creation of a State Railroad Commission, improvement of the public highways, development of the public school system, and a continuation of Governor Jones' policies.[32] To the increasing demand for the initiative and referendum the convention turned a deaf ear.

During the decade the Republican party activities were overcast and largely dictated by the State League of Republican Clubs. June 29, 1898, the league assembled in Little Rock and arranged the slate for the party convention the next day. The convention assembled and organized. A telegram from Powell Clayton, Ambassador in the City of Mexico, was read. Auten was named for Governor and a ringing platform adopted. The platform endorsed McKinley's administration, the Dingley tariff, sound money, the annexation of Hawaii, civil service reform, a free ballot, the consolidation of State and National elections, and legislation for developing the State's natural resources. It denounced the Democratic administration of the State government and all discriminations against

30. *Arkansas Gazette,* February 2, 1898.
31. Herndon, I, p. 353.
32. *Arkansas Gazette,* June 22, 1898.

Republicans in appointments to the boards which managed the State institutions.[33]

For Governor the Populists nominated W. S. Morgan and the Prohibitionists supported Alexander McKnight, but neither of these parties named candidates for other State offices. Their platforms contained no new principles, and their canvass was of no consequence.

The Gubernatorial campaign opened August 2 at Beebe in a joint debate between Auten and Jones, and from that date to the eve of the election spellbinders of both parties joined in discussing the issues of the day. It was the same old story of crimination and recrimination, with little regard to decorum.

The election was held September 5, 1898, and resulted in 75,362 votes for Jones, 27,524 for Auten, 8,332 for Morgan, and 679 for McKnight. The other Democratic candidates had majorities larger than that of Jones. The constitutional amendment proposing to authorize the creation of a railroad commission was adopted by a majority of 46,793 in a total vote of 80,673 on the proposition. At the same election the amendment to authorize county courts to levy a tax not exceeding three mills for internal improvements carried by 57,209 to 24,097 votes.[34]

The dominant party now enjoyed a new lease on power in the State, its members were satisfied with its public record, and for another two years its course was to be guided by Daniel Jones. The General Assembly met in its thirty-second regular session January 9 and adjourned April 19, 1899. In the Senate M. J. Manning was elected President without opposition, but in the House it required twenty ballots to elect Algernon F. Vandeventer Speaker over General J. C. Tappan, E. W. Rector and Thomas C. Herrn.[35]

January 18, Governor Jones read his message, relating in unembellished form the part Arkansas had played in the recent war and recommending measures to the consideration of the two Houses. He urged the creation of a railroad commission, legislation to enable counties to exercise the powers recently conferred on them by the constitutional amendment, and the modification of the law of 1897 creating a board empowered "to establish, survey, build and operate State railroads and telegraph lines," to empower that board to lease such roads as built and sell or dispose of such State lands as were located within twenty miles of any such road. This change the Governor thought wise because "the Missouri-Pacific Railroad Company had such a monopoly of the railroad interests in the State" capitalists would not invest in the construction of more roads, though willing to lease roads built by the State. After urging adequate provisions for meeting obligations on the State debt, he recommended a revision of the statutes regulating railroad charters, suit-

33. *Arkansas Democrat,* June 29, 1898; Herndon, I, p. 353-54.
34. *Arkkansas Gazette,* September 7, 1898.
35. *House Journal,* 1899, p. 11.

able provisions for a State Board of Health, endorsement of the popular election of United States Senators, a change in the methods of punishing prisoners convicted of misdemeanors, quadrennial election of State officers except legislators, and the removal of the penitentiary to a new site.

Besides measures relating to trusts, railroads, agriculture and foreign corporations this session yielded little out of the ordinary course of local legislation. The most important act was that creating of the Governor and six other electors appointed by him and confirmed by the Senate a Board of State Capitol Commissioners to follow prescribed duties in erecting a new State Capitol. For the purpose of carrying out the preliminary work of the commission for two years the sum of $50,000 was appropriated. At this session was submitted to the electorate a constitutional amendment to require sureties on official bonds to be residents of the State and possess sufficient property not exempted from sale under execution, attachment or other legal process to make good their guarantees.

Before the Legislature adjourned an organized fight against the anti-trust law was begun. The insurance companies and their agents were especially hostile to such legislation. The "Arkansas Gazette," in the name of sound business, waged ceaseless warfare on certain aspects of the law. April 6, 1899, a call was issued for a business men's convention to meet in Little Rock six days thereafter to consider the effects hostile legislation might have on business. At the appointed time about a thousand men assembled at Glenwood Park and demanded a modification of the law in relief of legitimate insurance business. Statesmen and aspirants to office took positions on the issue, and the fight went on.

Ex-Governor Clarke expressed himself as in favor of curbing the trusts, but thought it should be done in a businesslike way. Jeff Davis took his stand on the proposition that the law was sound, that it meant exactly what it said, and that it could be enforced if the people were determined to crush the trusts.[36] A few days later Attorney-General Davis, on a demurrer before Judge Martin in Circuit Court, made a speech on the anti-trust law which, in clear language, pitted him against the press, the business men and the lobby forces as the champion of the common people against privilege.[37] In the month of May the State Supreme Court, in a decision rendered by Justice Riddick, held that Attorney-General Davis' construction that the law intended to exclude from the State every trust wherever chartered was erroneous.[38] By the end of the month insurance companies were resuming business in the State and Jeff Davis had an issue on which he could defeat any man or set of men before the masses.

At this time Davis took the position that the law providing for the

36. *Arkansas Gazette,* April 13, 1899.
37. *Arkansas Gazette,* April 23, 1899.
38. *Arkansas Gazette,* May 28, 1899.

erection of a new State Capitol was unconstitutional in that it involved the collection of a tax not authorized by the fundamental law. He instituted *quo warranto* proceedings against the State Capitol Commission to determine their authority to remove the penitentiary.[39] The "Arkansas Gazette" reminded the public that Arkansas had been treated to similar *quo warranto* experiences in the days when Joseph Brooks was endeavoring to oust Elisha Baxter from the Governor's office, and intimated that the Attorney-General was only trying to cause trouble. Davis declared that his only objection to the new capitol project was that it would increase taxes, and the people believed him.[40] Governor Jones ventured an opinion that there would be no trouble in getting the *quo warranto* case set aside by the courts.[41] The courts did about as Jones guessed, Davis declared the courts wrong, and the masses believed him.

39. *Arkansas Gazette,* May 19, 1899.
40. *Arkansas Gazette,* May 21, 1899.
41. *Arkansas Gazette,* May 21, 1899.

CHAPTER XXVI.

THE TRIUMPH OF THE ONE GALLUS STATESMAN.[1]

By July 1, 1899, Davis was an avowed candidate for Governor. In commenting on that candidacy the "Gazette" recalled Davis' attack on the press and the courts and remarked, "Well, go to it, Jeff."[1a] The same paper, in commenting on Davis' Fourth of July speech formally announcing his candidacy for Governor, declared the gentleman had made three distinct mistakes; namely, in regard to the burial place of the President of the late Confederacy, in his assertion that the property on which the State House stood would revert to the Beebe heirs if the site of the State Capitol should be removed, and in his criticism of the decision of the Missouri State Supreme Court on an anti-trust law.[2] Davis was creating exactly the atmosphere in which he would be happy to canvass the State. In a speech at Ozark in September he broadened his scope of attack in declaring his intention of challenging Governor Jones to meet him in joint discussion and promising to "skin him alive" if the challenge should not be accepted.[3] That stroke was planned to kill off Jones as a future candidate for Governor or United States Senator. Jones did not meet Davis and the masses turned in increasing numbers to the challenger.

While he had been long in his campaign Davis' first great speech in his race for Governor was delivered at Center Point, in Howard County, on February 12, 1900. By that stage in the contest Judge Edgar E. Bryant, Col. John G. Fletcher and Algernon A. Vandeventer were considered in the race, and Davis began handling them in what he called the "hammer and tongs" fashion. Here he began the first of his three campaigns for Governor, and in this campaign came out all the characteristics of the man and his methods. For the next seven years he kept up an almost ceaseless canvass before the people, leaving administration duties to drift or, at best, clearly subordinating them to campaigning.

Declaring a fight on between the people and the trusts, he assumed the rôle of defender of the common people and proclaimed the press, the courts, big business and the "high collared" gang around Little Rock deadly enemies of the common weal. Filled with genuine sympathy for the common man, making himself appear a martyr when attacked, appealing to the human element of the uninformed masses, turning to his own advantage every major criticism of his record by declaring his enemies

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1. From this point on to the end the treatment in this part of the work must be briefer than that accorded to previous years. One reason is that several topics belonging mainly to this period are treated in detail in separate chapters; another is that we are not far enough away from some controversial subjects to treat them with proper perspective; also, limitations of space have their influence.

1a. *Arkansas Gazette,* July 1, 1899.

2. *Arkansas Gazette,* July 6, 1899.

3. *Arkansas Gazette,* September 26, 1899.

were trying to ruin an honest servant of the people, handling facts solely with regard to their bearing on his own success, and appropriating to himself practically everything worthwhile accomplished, he built up a powerful machine of capable and faithful lieutenants and dutiful henchmen. Fortunately for him his equal as a campaigner did not appear. Incapable of envisaging an opponent as an honest man, lacking in respect for accurate information on the public records of his adversaries, and ignoring the amenities observed by cultivated and polished statesmen in forensic contests, he sought to annihilate by arraying numbers against the representatives of economic conservatism. Shrewd in his play on sectional and race prejudicies, he arrayed the country dweller against the city, habitually wore clothes resembling the Confederate gray, boasted of his attachment for the traditions of his section, and bore the unmistakable earmarks of a sincere man. When other devices failed him, he set up Pulaski County and his opponents in Little Rock as enemies of the common man and stirred up the rural population against them.[4]

Since the counties in 1900 set their primaries at an early date, it was soon revealed that Davis was the popular choice. His opponents lost ground rapidly. The methods, the temper and the spirit of this champion of the people could not be understood by the conservative elements of society. By declaring he would never appoint a man to office unless he was a white man, a Democrat and a Jeff Davis man, he startled the old order, but he gripped the heart of the untutored elector.

By June 1, 1900, thirty-two counties had held primaries and Davis had captured them all. The Democratic State Convention had been called to meet in Little Rock June 26 and little time and less hope remained for his opponents.[5] June 16 the "Gazette" announced that Davis had carried seventy-four of the seventy-five counties and that the approaching convention would be a harmonious and great occasion. When the convention met Davis was placed in nomination by Judge Bryant and nominated by acclamation. With the exception of a bitter wrangle over the selection of a candidate for Auditor the subordinate places on the ticket were filled without difficulty. The platform was dictated by the Davis group, who controlled the entire proceedings. The only thing new in it was the spirit of Davis permeating the declarations. An attempt to endorse the new State Capitol project as a platform principle caused a small stir, but the convention ended in a Davis love feast.[6]

July 8 the Republican State Convention met at Glenwood Park, presided over by Jacob Trieber. They had already held a preliminary meeting in April to harmonize the jarring elements and decide whether to put out a full State ticket. What the preliminary meeting failed to settle had been worked out in the closed circles of the League of Republican

4. *Arkansas Gazette,* June 24, 1900.
5. *Arkansas Gazette,* June 10, 1900.
6. *Arkansas Gazette,* June 27, 1900.

Clubs immediately preceding the convention. There was no demand for candidates other than for the office of Governor. W. G. Whipple, chairman of the Platform Committee, showed the spirit of his fellow-Republicans when he referred to the Democratic nominee as "a cheap pretender of mock heroics." That remark introduced an elaborate platform of eighteen planks, endorsing the principles and policies of the National Republican party, condemning Democratic rule in Arkansas, and favoring legislation to promote the economic and industrial development of the State. The platform was adopted without a dissenting voice, and H. L. Remmel was nominated for Governor.

The Populist movement was dead, but a few irreconcilable Middle-of-the-Roaders held a mass meeting in Little Rock July 28 and agreed to support A. W. Files for Governor. Without electing the usual party committees they appointed R. CarlLee, O. Russ, and O. S. Jones a committee to formulate a plan for disseminating education on Populism.[7]

Early in July the State Democratic Central Committee issued an urgent request that Democratic clubs be organized in every voting precinct for regular meetings until the Presidential election was over in November.[8] On the 16th of that month the chairman of that committee agreed with the chairman of the corresponding committee of the Republican party on a joint discussion of the issues of the day in thirty-eight important centers, beginning at Conway July 30 and ending at Little Rock on Saturday, September 1, at 8 p. m.[9] August witnessed the greatest gubernatorial campaign in the history of the State up to that time. Both Democratic and Republican clubs were active. A small group of Democrats, including ex-Governor Fishback, declined to support Mr. Davis, but that only increased the enthusiasm and devotion of the masses for their new idol. Practically every stump speaker in both parties was engaged with Republican pitted against Democrat in both regional and State-wide circuits.

When the votes cast on September 3 were canvassed it was found that Governor Davis had 88,637, Remmel 40,701, and Files 3,641. The vote of more than 117,000 for each of the other Democratic candidates for State office would suggest that a considerable number of Democrats had refused to vote for Davis or a greater number of Republicans and Populists had voted for the Democratic nominees for subordinate places.[10] The other State officials were: J. W. Crockett, Secretary of State; T. C. Monroe, Auditor; T. E. Little, Treasurer; George W. Murphy, Attorney-General; J. J. Doyne, Superintendent of Public Instruction; J. W. Colquitt, Land Commissioner; Frank Hill, Commissioner of Mines, Manufacture and Agriculture; Carroll D. Wood, Associate Jus-

7. *Arkansas Gazette,* July 28, 29, 1900.
8. *Arkansas Gazette,* July 14, 1900.
9. *Arkansas Gazette,* July 17, 1900.
10. *House Journal,* 1901, p. 25.

tice; J. G. Wallace, F. M. Hanley, and Abner Game, Railroad Commissioners. In November P. D. McCulloch, J. S. Little, T. C. McRae, C. C. Reid, H. A. Dinsmore, and Stephen Brundidge were elected to Congress. The next State Legislature would be solidly Democratic in the Senate and have only two Republicans, one Populist and one Independent in the House.[11]

The thirty-third regular session of the General Assembly opened January 14, 1901, and adjourned on the 4th of May following. Robert J. Wilson was elected President of the Senate and T. H. Humphrey Speaker of the House. On the fifth day of the session Governor Jones read a moderate retiring message, stating the condition of the State's indebtedness, recommending a continuation of the Board of Capitol Commissioners with the annual levy of a three-fourths of one mill property tax to supplement other funds for the continuation of that building program, recounting the progress made in building the new penitentiary, recommending changes in the criminal law, and urging the establishment of a reform school.

Governor-elect Davis immediately followed Jones with his inaugural message, recommending drastic amendments to the anti-trust law, the enactment of proper laws to afford employees protection against injuries sustained in hazardous employment, absolute repeal of the law of 1897 providing for the building of State railroads by convict labor, the enactment of a law forbidding the voidance of life insurance contracts on the grounds of suicide except on proof to a jury that suicide was contemplated at the time the insured made the contract, the establishment of a reform school, and either the abandonment of the new capitol enterprise as a piece of bad business or proper safeguards against extravagance and waste in its further prosecution.[12]

Beyond legislation on the subjects of trusts, railroads, foreign corporations and agriculture the output of 1901 included laws to prohibit secret fraternities at the State University, to prevent false statements by banks, to prevent gambling, to prohibit the sale of liquors to minors, to prevent the sale of adulterated candies, to levy an inheritance tax, to repeal the law providing for State construction of railroads, to redistrict the State for Senatorial purposes, and to continue the new capitol.

One of the first duties of this Legislature was to elect a United States Senator to succeed James H. Berry. The House balloted January 22, giving Berry, Democrat, 94 votes to 2 for H. L. Remmel, Republican.[13] On the same day the House voted unanimously for Berry, and in joint session the next day he was declared elected.

Governor Davis vetoed a bill for the purchase of a State convict farm because it did not provide for paying for such farm out of the proceeds

11. Herndon *Outline*, p. 149.
12. *House Journal*, 1901, pp. 134-49.
13. *House Journal*, 1901, p. 63.

of convict labor.[14] Two pure food bills were buried in the House. The attempt to pass a railroad fare bill was killed by the lobby. The reform school bill failed to make headway, and the fellow-servant law did not materialize.

Before the General Assembly adjourned the politicians began planning for the next election. The prophets announced that the campaign of 1902 would open early and there would be plenty of candidates.[15] It was generally conceded that Governor Davis could have either a second term as Governor or a seat in the United States Senate. If he announced for the Senate a number of men would announce for Governor, if he asked for a second term as Governor, James P. Clarke would oppose James K. Jones for the Senate and the anti-Davis forces would find a candidate to oppose the Governor. By the first of June, 1901, the Governor let it be known that he would not enter the senatorial race.

All during these months of uncertainty as to the Governor's plans he was investigating the conditions under which the convicts under contract were forced to live.[16] He talked as much as he investigated. He broke with the Attorney-General over the convict question and carried the public with him. The Dickinson convict contract was annulled, the contractors appealed to the courts, and the superintendency of the penitentiary was filled with R. B. Hogins, a Davis favorite.[17] From his office pardons flowed easily, and he made it appear that he had so much of human sympathy that he could not resist the appeals of women and orphans distressed over the imprisonment of their loved ones. In the midst of severe criticism of his pardon record, and in a community where pardons were not popular, he piously declared that if people didn't want men pardoned to enjoy a second chance at life, they had better keep woman and children from shedding tears around his office. His own accounts of how he had brought sunlight and happiness into the family circle of poor homes by reaching out a hand to a boy or a husband who had shown too much of the frailities common to the race always mellowed the hearts of men.

Early in September he spoke at Searcy and asked for a second term on the merits of his record. And when his announcement failed to create the stir desired, he pitched into the senatorial race between Clarke and Jones, declaring that he could not redeem his pledges against the trusts if Jones returned to the United States Senate. With that declaration went a request for the election of a State Legislature which would help him in advancing the material development of the Commonwealth.[18] He was deliberately making himself an issue in all the contests. In closing that speech he promised to retire at the end of his second term.[19]

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14. *Arkansas Gazette*, March 22, 1901.
15. *Arkansas Gazette*, May 21, 1901.
16. *Arkansas Gazette*, July 28, 19101.
17. *Arkansas Gazette*, September 8, 1901.
18. *Arkansas Gazette*, October 20, 1901
19. *Arkansas Gazette*, October 18, 1901.

Davis always preferred long campaigns, and in 1901 his friends controlled the State Central Committee of his party. So that committee on December 18, 1901, held a meeting and called the State convention for June 10, 1902. Before the end of January following sixty-five counties had designated March 29 as primary election day, thus confining the canvass to the winter months. But since Davis could endure the hardships of campaigning better than any of his opponents, and since the rural population were not so busy with their farming during the winter, this arrangement placed him at an advantage. He always sought to keep the center of the stage, and to do that strong opposition was essential.

The proper opposition appeared on January 2, 1902, when Col. E. W. Rector announced his candidacy for Governor. Rector's decision meant a fight for the "one gallus" democracy, and it started immediately. January 28 the candidates met in joint discussion in Rector's home city. Davis, as usual, took the aggressive. After defending his record he boldly declared: "If you don't like my record, vote for Rector. He's a gentleman." But that challenge was followed by an attempt to show that he was the first Governor in the State's history to be denied a second term. He was at his best when painting his own accomplished record as a plain servant of the people with the promise of Rector the gentleman. Rector delivered many a telling blow at that record, and charged that the Governor spent too much of his time in running for office, but Davis convinced his hearers that he was a good and faithful servant of the masses, coming occasionally to tell the plain man of how he was determined to clean out the gang at Little Rock, even if he had to turn Red River on them. And so the canvass went on, Davis holding his "red neck" and "hill billy"[19a] democracy against the united forces of all the conservative groups.

As the primaries approached he took another dip into the Senatorial contest by sending out to his friends an exhortation to vote for Clarke as the anti-trust candidate.[20] As it turned out the primaries gave Davis sixty of the seventy-five counties and James P. Clarke a majority of 10,000 votes in forty-three counties for the Senate. And then for two months peace reigned, except for a factional fight within the Republican party over the Federal patronage and a persistent demand of James P. Clarke's friends that James K. Jones declare his willingness to accept the decision of the primaries as final.

When the Democratic State convention met June 10, Thomas C. McRae was elected permanent chairman and made an appeal for harmony which did much to remove the bad feelings growing out of the recent campaign. The 503 delegates immediately settled to the task of ratifying the results of the primaries and formulating a platform. Rec-

19a. These terms were applied by Davis himself to his followers.
20. *Arkansas Gazette,* March 30, 1902.



COURT HOUSE, HELENA

tor's name was withdrawn and Davis given the nomination for Governor unanimously. In accepting this endorsement he expressed profound gratitude to the people and announced that he would be a candidate for the United States Senate against James H. Berry in 1907. The ticket was completed with John W. Crockett for Secretary of State, T. A. Tipton for Treasurer, T. C. Monroe for Auditor, George W. Murphy for Attorney-General, F. E. Conway for Land Commissioner, H. T. Bradford for Commissioner of Mines, Manufactures and Agriculture, J. H. Hinemon for Superintendent of Public Instruction, and B. B. Battle for Associate Justice.[21]

After some effort of Senator Jones' friends to prevent a flat endorsement of Clarke to the next Legislature, the convention voted 420 to 73 to nominate Clarke. The platform adopted called for the taxation of franchises of corporations, declaimed against trusts, pledged the party to completion of the new capitol, favored an enlargement of the powers of the railroad commission, promised buildings for the insane asylum, recommended the erection of a reform school, and endorsed Governor Davis' administration. It was voted to hold the next State convention on the second Tuesday in June, 1904, in the city of Hot Springs, and the first Saturday in April was set for the county conventions and primaries of 1904.[22]

Sixteen days after the Democrats adjourned their convention the Republicans assembled at Glenwood Park in Little Rock. Since the leaders had not been able to settle their differences over the patronage, little was done in open convention. In the platform the only new feature was the emphasis placed on legislation calculated to encourage the material development of the State. The convention unqualifiedly opposed any further joint campaigning, approved again the Republican Club League plan of action, and assured the candidates to be nominated of the hearty support of all club Republicans. As completed the ticket carried H. H. Meyers for Governor, Charles T. Duke for Secretary of State, John L. Smith for Auditor, Joseph Berger for Treasurer, C. F. Cole for Attorney-General, R. L. Floyd for Superintendent of Public Instruction, W. H. Conine for Land Commissioner, F. S. Baker for Commissioner of Mines, Manufactures and Agriculture, and Charles C. Waters for Associate Justice.[23]

Sorely displeased at the outcome of the convention and defiant of the old place-seekers who controlled the party, a group calling themselves Insurgent Republicans held a meeting on the evening after the regular convention adjourned. George W. Fouke presided over what was claimed to be 297 delegates, a platform was adopted denouncing Demo-

21. *Arkansas Gazette,* June 10, 1902; Herndon, I, p. 359.
22. *Arkansas Gazette,* June 10, 1902.
23. *Arkansas Gazette,* June 26, 27, 1902; Herndon, I, p. 359.

cratic rule in the State, and inveighing against one-man selfish rule in the Republican party. Charles D. Greaves was nominated for Governor and went forth to battle for the right.[24] The Prohibitionists nominated George H. Kimball for Governor, but neither they nor the Insurgents named candidates for minor State offices.

Although the Republicans had declared against a joint canvass, they and the Democrats agreed on a joint canvass in seventy places. The speaking began at Stuttgart July 23 and continued to the very eve of the election on September 1, but there appeared during that period not one new issue, argument or interest.

The election resulted in 77,354 votes for Davis, 29,251 for Meyers, 8,345 for Greaves, and 4,791 for Kimball. The other Democratic candidates exceeded Davis' vote by about 8,000, while the subordinate Republican candidates ran ahead of Meyers by approximately 6,000 votes.[25] The successful candidates for the other State offices were: John W. Crockett, Secretary of State; T. C. Monroe, Auditor; George W. Murphy, Attorney-General; F. E. Conway, Land Commissioner; H. T. Bradford, Commissioner of Mines, Manufactures and Agriculture; J. H. Hinemon, Superintendent of Public Instruction; B. B. Battle, Associate Justice; B. B. Hudgin, J. E. Hampton, and Joseph W. Phillips, Railroad Commissioners. November 4, R. B. Macon, Stephen Brundidge, Jr., H. A. Dinsmore, John S. Little, C. C. Reid, Joe T. Robinson, and R. M. Wallace were elected to Congress.

With the elections over there should have come a rest from the problems of politics, but the penitentiary board had purchased the Cummins farm of approximately 11,000 acres for a convict farm, and the Governor seized upon that act to turn his own opposition to the purchase into an issue to be carried to the people. He was being severely criticized and needed to shift public attention.

The thirty-fourth regular session of the General Assembly convened at the capitol January 12, 1903, and adjourned on April 30 following. Very little had been said about the probable measures to be considered by this Legislature and the members came together with few commitments. Joseph L. Short was elected President of the Senate and John I. Moore Speaker of the House. During the third day's session Governor Davis delivered a message of rare merit. In relating much delicate history of the last two years, he warned his hearers against mistakes of the past. He advised local and special legislation and called their attention to the "penitentiary crowd" of "leeches" and "bloodsuckers" who were trying through corrupt management of the penitentiary to build up a political dynasty to control the State. He asked for legislation that would enable him to reform the penitentiary system, related a sordid

24. *Arkansas Gazette,* June 27, 1902.
25. *House Journal,* 1903, p. 26.

story of the negotiations for the purchase of the convict farm, and advised against the approval of the purchase. He recommended expansion for State institutions, asked for an enlargement of the King bill as the most likely law to curb the trusts, and demanded as a fulfillment of the party pledge the enactment of a fellow-servant law. He emphasized the need of a reform school, the collection of overdue taxes from the railroads, the cancellation of certain convict contracts, and suggested that the new capitol project be abandoned or adequate precautions be taken against waste and extravagance.[26]

The production of this Legislature included valuable laws to promote the State Guard, to require separate street car accommodations for whites and blacks, to levy a collateral inheritance tax, to establish Labor Day and limit the working hours of railroad employees, to authorize county boards of health, to regulate the granting of diplomas by literary institutions, to separate white and negro prisoners, to regulate the practice of medicine and surgery, and to provide for a State exhibit at the Louisiana Purchase Exposition. A gesture was made at a child labor law, but it proved ineffective because the age limit was too low and because of lack of inspection.[26a]

This Legislature was a probing body. The proposed convict farm was visited, an inquiry into the purchase of that property was voted, the Governor's use of his contingent fund was investigated, and Chancellor Leatherman was impeached. Out of the probing came more politics than light. The convict farm purchase was perfected, the Governor won on every score in his contingent fund practices, and the Senate failed to convict Leatherman. The Legislature handled the Governor's vetoes without mercy, but his messages scored with the masses. After adjournment he vetoed as he pleased and made votes by it. During the probing Attorney-General Murphy publicly attacked the Governor and defended the record of the penitentiary board,[27] and Davis turned the attack to his own advantage.

In the election of a United States Senator the attitude of the Legislature towards the primary was clearly reflected. In the House Clarke received 58 votes to 36 for Jones, and in the Senate he had 19 to 14 for Jones. In the House two votes were cast for Remmel, the Republican.

When the General Assembly adjourned the political waters were disturbed. Davis announced his candidacy for a third term on the grounds that the Legislature had not carried out the will of the people and that he wanted vindication before the sovereign people.[28] At that stage of the game it was supposed that Judge Carroll D. Wood, Superintendent Hinemon, J. S. Little, John I. Moore, James H. Harrod, or A. F. Vande-

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26. *House Journal*, 1903, p. 133.
26a. Acts of 1903, pp. 213-15.
27. *Arkansas Gazette*, February 13, 1903.
28. *Arkansas Gazette*, May 17, 1903.

venter would run for Governor. "This is going to be a bruising race," said the "Gazette"; "don't enter it unless you are prepared for a fight to a finish."[29] That impression was exactly what Davis desired. And when the announcement came that Judge Wood had decided to run and would soon declare his platform, the Governor was happy.

By midsummer of 1903 the elements of the contest had shaped up and a fight was on. Davis, Wood, Vandeventer and M. J. Manning began to canvass the State. July 4 all the candidates except Wood spoke at Brinkley. Ten days later Manning withdrew from the race and declared that the contest was really between Davis and Wood. Then, from July to December, the campaign went on, Davis defending his record and attacking the Legislature, the press, the Supreme Court, the Little Rock ring and the penitentiary crowd. Judge Wood attacked the Governor's pardon record, charged him with cowardice and falsehood, defended the Supreme Court and endeavored to discuss the real issues before the people. Vandeventer played a subordinated rôle, hostile to the Governor and friendly to the judge. Most of the newspapers of the State, one Presbyterian group and two Methodist conferences registered their disapproval of Davis, and his own church relations became critical; but he turned it all to his own advantage when he spoke to the "one gallus" boys. It was one man against the field. When others, as in the case of Judge Bourland, spoke for Davis it helped his cause but little.

Occasionally, when the Governor had finished speaking, he announced that he must be going, but would be glad for his friends to remain and hear his opponents. His admirers usually left with their hero. Seldom did he lose his composure, and seldom did he fail to exasperate his opponents into a display of bad temper. On such occasions the natives laughed and yelled: "Go it, Jeff." There was always a crowd to hear the orators in this campaign—4,000 at Butlerville, 8,000 at Alma. The epithet "liar" was hurled recklessly by all the candidates, followed on occasions by personal encounters. It was published abroad that both Wood and Davis had been arrested at Hope, and that Davis had been fined by the mayor.[30]

With the opening of the new year Vandeventer withdrew after having made seventy-five speeches. Then the "Gazette" declared, "Davis is the issue," and described the canvass as "Davis' sore toe campaign." A Carroll D. Wood Club of 1,600 members was boastingly reported in Pulaski County, and when Davis again spoke and left without hearing his opponent his enemies whined. They sought to emphasize "no third term" as an issue, but made little headway with it. And on to the primary of March 26 ran the battle of mud, slime and exasperating epithets. When the voting was over Davis stood vindicated by the votes of his

29. *Arkansas Gazette,* May 28, 1903.
30. *Arkansas Gazette,* December 30, 1903.

"one gallus" friends. Nominated with him were O. C. Ludwig for Secretary of State, H. C. Tipton for Treasurer, Avery E. Moore for Auditor, J. H. Hinemon for Superintendent of Public Instruction, F. E. Conway for Land Commissioner, Robert L. Rogers for Attorney-General, H. T. Bradford Commissioner of Mines, Manufactures and Agriculture, Joseph M. Hill for Chief Justice, and E. A. McCulloch for Associate Justice.[31]

And now, instead of turning Red River on the gang at Little Rock, the triumphant Governor went in a steam launch up that particular stream on a fishing trip.[32] But the date for the Democratic State Convention was near and there was danger of a fight for its control. So Davis was soon back in touch with his friends. When that body met on June 16 in Hot Springs, Col. C. C. Hamby was made chairman. Davis was in control, dictated the selection of delegates to the National Democratic Convention, and was chosen to head the delegation. It was voted that the results in a Senatorial primary should be binding on the Legislature, decided that primaries should be held on the last Wednesday—March, 1906, set the next State convention to meet at Hot Springs on the first Tuesday in June, 1906.

Early in May the Republican League had met at the Capitol Theatre in Little Rock, had reaffirmed their preference for the league plan of action, and denounced the disgraceful affair at West End Park, where many people had been offended at some of Governor Davis' remarks. Harry Meyers was named for Governor and no other candidates chosen. J. E. Williams ran as a Prohibitionist and William Penrose as a Socialist. The gubernatorial canvass was a listless affair. September 5 the balloting resulted in 91,991 votes for Davis, 53,898 for Meyers, 2,527 for Williams, and 1,364 for Penrose.[33] The other candidates on the Democratic ticket exceeded Davis' vote by approximately 46,000 votes each. The only change in Congressmen was the election of J. C. Floyd to succeed H. A. Dinsmore. The next Legislature would have in the Senate one Republican and thirty-four Democrats, and the House one Populist, five Republicans, and ninety-four Democrats.[34]

The thirty-fifth session of the General Assembly convened at the capitol January 9, 1905, and adjourned May 4 following. Organization was easily effected. On the first ballot in their respective Houses, W. W. Cate was elected Speaker of the House and A. W. Covington President of the Senate.[35] During the third daily session Governor Davis read his message. Appealing for a cessation of the bitterness engendered in the late canvass, he arrayed figures to show that the State was in the best financial condition in its history. He reported the State charitable institutions in excellent condition, recommended again the establishment of

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31. *Arkansas Gazette,* April 6, 1904.
32. *Arkansas Gazette,* May 12, 1904.
33. *House Journal,* 1905, p. 22.
34. Herndon, Outline, p. 155.
35. *House Journal,* 1905, p. 5.

a reform school, charged every member to be careful how he voted on the King anti-trust law which he thought the courts had destroyed by construction, and urged the taxing of all corporate property on the same footing as railroads. He insisted on taxing franchises, warned the legislators against railroad lawyers and lobbyists, and called for an aggressive and positive program. He asked for a genuine fellow-servant law, protection against wildcat insurance companies, modifications of the wine law just and fair to both the producers and the temperance people. More adequate housing for students at the State University he urged with emphasis. He demanded reform in the management of the penitentiary, suggested a material reduction in the State tax rate, asserted that it would cost much more than a million dollars to complete the new capitol on the present plan, and appealed for the preservation of the old State Capitol.[36]

As the lawmakers settled to their task lobbyists began the most subtle campaign in the history of the State. At an expenditure of approximately $200,000 the corporations blocked most of the bills considered dangerous to their interests. Boodling reached its height at this session, and out of it all came prosecutions and convictions for bribery.

While 215 of the 350 acts passed at the session were local or special much significant legislation was enacted. Of first importance were laws to fix the western boundary of the State, to designate a legal day's work in saw and planing mills, to protect labor unions, to regulate the manner of impeaching witnesses, to require the stamping of weights on certain articles offered for sale, to change the management of the penitentiary, to prevent corporations paying for labor in tickets or scrip, to class timber as personal property for taxation, to establish a reform school, to prohibit the blacklisting of employees, to create the Arkansas History Commission, to fix the State tax rate, to restrict the sale of cocaine, and to regulate the practice of medicine. Of less importance were acts to extend time for assessing cotton, to require the clerk of the Supreme Court to employ a librarian, to prohibit public executions, to require the observance of Robert E. Lee's birthday in the public schools, to incorporate the Grand Chapter of the Order of the Eastern Star, to prohibit non-residents trading horses in the State, to make the first Saturday in March Arbor Day, to require circuses to exhibit what they advertised, to develop water power in the State, and to require the heating of street cars.

Jeff Davis' message to the thirty-fifth General Assembly very nearly ended his work as Governor. He labored on during the session, with his eye open for issues on which to open his senatorial campaign as soon as the legislators returned home. His administrative policies continued unchanged. As we have noticed he had long been an avowed candidate for the seat of James H. Berry in the United States Senate, and since he

36. *House Journal,* 1905, pp. 28-48.

was restless when not campaigning he announced that he would open his campaign at Conway on the Fourth of July. Berry declined to meet him so early and carry on such a long and arduous campaign. Davis said little about the Senator not meeting him, because Berry was old and crippled. But opposition was essential to his success as a campaigner, and hence he espoused the cause of J. S. Little against Robert S. Rogers in the gubernatorial contest. That was sufficient. He waged a terrific fight on Bob Rogers, the Little Rock ring, and Senator Berry's record. He defended his own record as a public servant, misrepresented the financial conditions of the State, declared the whole new capitol affair a steal, boasted that he had refused to sit at the banquet table with President Roosevelt, denounced the State farm purchase as the scheme of crooks, raked up the story of Powell Clayton's corrupt rule, and convinced the people he was telling the truth. Davis' plans had been long maturing. He had secured the adoption of a rule by his party convention declaring the results of a primary binding on the Legislature in senatorial contests, he had helped defeat James K. Jones with James P. Clarke, he had convinced the people that he deserved promotion. And in the primary of 1906 he received 67,982 votes to 55,074 votes for James H. Berry, one of the most beloved men who ever held office in Arkansas. Berry carried only twenty-four of the seventy-five counties.

CHAPTER XXVII.

RECOVERY AND PROGRESS.[1]

By David Y. Thomas.

In the previous period personalities dominated Arkansas politics. In this period there was, not a revolution, but a gradual change. Mud slinging became not quite so common, issues more important. The State government was experiencing growing pains. It was being called upon to perform new functions or enlarge old ones, but it was hard for those called to the helm of State to persuade the people to furnish the necessary means. At the beginning the people were still thinking in terms of thousands of dollars while demanding more service; but their range of vision gradually enlarged and by the end of the period they were thinking in terms of tens of thousands and in another decade in terms of hundreds of thousands.

After having been the "stormy petrel" of Arkansas politics for at least six years, Jeff Davis could not be expected to retire completely from that realm of activity with complete indifference as to who was to "carry on." Indeed, up to the time of his death he was accustomed to return to the State to champion the cause of particular individuals seeking office. Occasionally a man announced for office on the platform that he was a supporter of Davis. Among those who aspired to the office he was to vacate, Mr. Davis gave his support to John S. Little, and that gentleman received the Democratic nomination. The following were associated with him on the ticket: O. C. Ludwig, Secretary of State; Avery E. Moore, Auditor; James L. Yates, Treasurer; William F. Kirby, Attorney-General; J. J. Doyne, Superintendent of Public Instruction; Guy B. Tucker, Commissioner of Mines, Manufactures and Agriculture, and J. E. Riddick, Associate Justice. The Republicans put out John I. Worthington for Governor, and the Socialists, Daniel Hogan; the Prohibitionists, John G. Adams. September 3, Little received 105,586 votes, Worthington 40,784, Hogan 2,185, Adams, 3,293.

On November 6, 1907, the following Democratic Representatives to the Federal Congress were chosen: R. B. Macon, S. Brundidge, Jr., J. C. Floyd, Ben Cravens, Charles C. Reid, Joe T. Robinson, R. M. Wallace—the order in which the names read being that of the districts from one to seven. All these men had already served one or more terms, except Cravens, who was elected to fill the place of John S. Little, the Governor-elect. After March 4, 1907, James P. Clarke, elected in 1902 and serving until his death in 1916, was senior United States Senator

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1. Acknowledgment is made of indebtedness to Mr. E. P. Conklin, representative of the publishers, for assistance in the preparation of this chapter.

from Arkansas. Governor Jefferson Davis, having defeated J. H. Berry in the primaries of March, 1906, was now elected to the Senate, January 30, 1907, and served from March 4 until his death, January 3, 1913. J. N. Heiskell was then appointed by Governor Donaghey to occupy the vacant seat, continuing until January 29, 1913, when William M. Kavanaugh was elected by the Legislature to fill the term expiring March 4, 1913. On January 29, 1913, Governor Joe T. Robinson was elected to the position for the full term and has continued in that position down to the present and is (1930) the minority leader in the Senate. Upon the death of Senator Clarke, October 1, 1916, William F. Kirby was elected at the general election of that year to fill the unexpired term. He served until 1921.

To summarize the changes which the years of the period 1907 to 1919 wrought in our Representatives to Congress, it may be pointed out that R. B. Macon served until 1915, when he was succeeded by T. H. Caraway (elected to the Senate in 1921); W. A. Oldfield followed Brundidge as Representative from District No. 2, in 1911; Floyd served District No. 3 until 1915, when J. N. Tillman succeeded him; Cravens was a member of Congress from 1907 to 1915, when Otis T. Wingo, the present dean of our delegation, took his place; Reid, from District No. 5, was followed by H. M. Jacoway in 1913; Joe T. Robinson resigned January 14, 1913, to become Governor, and S. M. Taylor was elected to the vacancy and served until his death in 1922; in the Seventh District, R. Minor Wallace was the Representative from 1903 to 1913, when he was succeeded by W. S. Goodwin.

When the Legislature met (January 14, 1907), it elected John I. Moore President of the Senate and Allen H. Hamiter Speaker of the House. Four days later Governor Davis delivered his last official message and that afternoon Mr. Little was inaugurated.

John Sebastian Little was the third Governor of the State who was a native son of Arkansas, Jenny Lind village in Sebastian County being his birthplace. He was born March 15, 1851; he was educated in the public schools and Cane Hill College; taught school, read law, and was admitted to the bar at Greenwood, when twenty. He started to practice at Paris; served as prosecuting attorney for four years between 1877 and 1882; was a judge of the Twelfth Circuit Court from 1886 to 1890; served as Congressman from 1894 to the time of his election to the gubernatorial chair. A few days after his inauguration as Governor, on January 18, 1907, he suffered a nervous collapse, from which he never fully recovered, dying October 29, 1916. The State showed every consideration to the man and his family during this period, paying him the salary of his office for which he was incapacitated.

Governor Little's inaugural indicated that he wished to enter upon a constructive program. He brought up that phase of the school problem

which the schoolmen and statesmen were to agitate for several years before reaching a solution—better schools, including high schools, for the rural population. He proposed a textile school as a means of encouraging the establishment of cotton mills. Two cents a mile he considered sufficient fare for passengers on the railroads. As for the capitol, there had been a time when men might have divided on the wisdom of building one, but that time had passed and he urged its completion.

The nervous collapse which soon followed has already been noted. January 21, the Legislature took notice of it in appropriate resolutions. More than two weeks later, during which the Legislature drifted, Governor Little recognized the fact that he could not perform the duties of his office and asked (February 11) the President of the Senate to act for him. Then began a procession of acting governors.

The Constitution (Art. V, Sec. 18) says that the Senate shall, at the beginning of a session, elect a President; and, whenever, at the close of the session, it shall appear that the term of the member elected President will expire before the next regular session, the Senate shall elect another President from the "hold over" members. In accordance with the Constitution Mr. Moore served as Acting Governor until May 14. Just before adjourning, the Senate, in obedience to the Constitution, elected X. O. Pindall, who had just been elected to fill a vacancy caused by death and was a "hold over," as President. He now became Acting Governor. The Constitution also says (Art. VI, Sec. 14) that when the office of Governor becomes "vacant by death, resignation, removal from office, or otherwise, provided such vacancy shall not happen within the twelve months" of the end of the term, then the Acting Governor shall immediately call an election to fill such vacancy. Shortly after Mr. Pindall began to serve a demand arose, prompted, no doubt, by would-be candidates, that he call an election, but Mr. Pindall could not see that there was a vacancy, refused to issue the call, and thus saved the State the expense of an extra election when public funds were running low. He served until January 11, 1909, when Jesse M. Martin was elected President of the Senate and, therefore, Acting Governor, in which capacity he served three days. Perhaps the solons wanted to pass the honor of being in the "Procession" around.

The Legislatures had not always been in harmony with Governor Davis. That of 1907 breathed a sigh of relief when his last message was finished, but on the matter of the capitol, they came nearer following him than Little and, like the session of 1905, did nothing. On railroad fares they passed the two-cent bill, but did nothing more than usual for schools.

An employer's liability act passed. A curb was put upon the arbitrary and wasteful methods of spending the State's revenue by officials and commissions when it was enacted that no officer or member of any

board was permitted to expend more than the sums appropriated for the department. State elections were ordered held on the second Monday in September beginning with 1908; the anniversary of the birth of Robert E. Lee, January 19, was made a legal holiday; the Governor's salary was placed at $4,000 yearly; acts were passed attempting to curb betting on horse races and dealing in future of farm products. The total number of bills passed was large, 460, but many were small in value, being local or special acts.

In national politics the Democrats, after the disastrous defeat of 1904, turned, somewhat hopelessly, a third time to William J. Bryan, and associated with him John W. Kern, of Indiana. President Roosevelt selected W. H. Taft, his Secretary of War, as his successor, and the Republican convention added the name of James S. Sherman, of New York, for Vice-President. The Socialists put up Eugene V. Debs, and William R. Hearst, unable to get anywhere in any party, set up an Independence League with Thomas L. Hisgen as its nominal head. As between the two major parties, the chief issues were the tariff and trusts and the Republicans stole the Democrats' campaign thunder with a platform which the candidate interpreted to mean tariff revision downward. This and a winning smile gave W. H. Taft the Presidency with a plurality of over a million.

In State politics the Democratic convention broke a long line of precedents in turning from lawyers to nominate a business man for Governor, George W. Donaghey, of Conway, and later of Little Rock. Perhaps this was because he had made a strictly business proposition, the building of the capitol, the chief issue of his campaign. In his campaign he had told the people that it must be completed with honest workmanship. The new names on the rest of the ticket were: John R. Jobe, Auditor; Hal L. Norwood, Attorney-General; George B. Cooke, Superintendent of Public Instruction, and J. C. Hart, Associate Justices of the Supreme Court. John I. Worthington again led the Republicans to defeat, while J. Sam Jones appealed to the Socialists and doubled the vote of 1906. The outcome on September 14 was 110,878 for Donaghey; 45,409 for Worthington, and 6,787 for Jones. In the November election it is interesting to note that the vote for Bryan fell to 87,015 and that of Taft rose to 57,760.[2]

Mr. Donaghey was born at Oakland, Louisiana, July 1, 1856, but was brought to Arkansas by his parents, who ultimately settled in Faulkner County. While in his 'teens George W. "punched" cows in Texas, worked on a farm, and on the railroad as a section hand. He had secured some education in the public schools and decided to try the Arkansas Industrial University (now University of Arkansas), but did not stay to graduate. He learned carpentry at Conway, soon became a contractor

2. Herndon, Centennial History of Arkansas, I, 367.

and built the courthouse of Faulkner County. Later he was a fellow-contractor for the courthouse of Fayetteville and several of the buildings on the campus of the University. He was the chief contractor in building several railroads in the State. The Legislature of 1907 provided for a State Normal School and it was largely through his influence and beneficence that this was located at Conway. Both before and after his term as Governor he gave to Hendrix College. In 1929 he and Mrs. Donaghey gave to the Little Rock Junior College two buildings estimated to be worth a million dollars or more when paid out. He is one of Arkansas' most useful citizens.

Mention has already been made of the election of Jesse M. Martin as President of the Senate in 1909. F. E. Brown was made Speaker of the House. Governor Donaghey's inaugural was a very practical state paper and contained an appeal for legislative coöperation. His three main objectives were to build the capitol, to establish agricultural high schools and improve the revenue system. The funds for the capitol had already been taken care of by a special capitol levy of one half of a mill. The first and the last of these subjects it is better to treat as a unit running through both terms.

The Legislature of 1909 established four agricultural high schools with the idea that they would teach the children of farmers how to farm better; required a license of $200 in each county of agents selling lightning rods, clocks and steel stove ranges and, naturally, such agents disappeared; established a twice a month pay day for corporations;[3] prescribed the duties of the sheriff and judge in preventing mob violence; appropriated $80,000 to start and maintain a tuberculosis sanitarium; defined the duties of the History Commission, which had been created at a previous session, and appropriated money for its expenses. Dr. Dallas T. Herndon had already been elected secretary by the commission and has served in that capacity ever since. It reimbursed Mr. Pindall for the money he had borrowed to pay his own salary. After a hard contest Governor Donaghey induced the Legislature to accept most of his idea on the completion of the capitol, also to create a tax commission.

An important act of this Legislature was the complete legalization of the primary. Apparently the first legal recognition of the primary came in 1891, when the law specified that nominations should be certified by "the chairman and secretary of any convention of delegates, or the canvassing board of any primary election, held by authority of any organized political party in the State," such certification being acknowledged before the proper officer.[4] An act of 1895 made all such primary elections for nomination of candidates for all State, county and municipal offices and for United States Senator and member of the House of Representa-

3. This was held not to deprive corporations of equal protection, or to limit unduly the power of employees to contract. Arkansas Store Co., *vs.* State, 94 Ark., 27-39.

4. Acts of 1891, p. 42.

tives, legal elections, provided the County Central Committee, twenty days before the date of the election, filed with the county clerk a properly certified statement that the election would be held under the provisions of the law. This act left it optional in each county, but if held under the law, it must be according to the regulations for the general elections.[5] The act of 1909 went further and authorized the State Central Committee to call an election for State officers, making it general and uniform.[6] The law has been amended several times since then, always with the idea of securing greater purity in elections. It is still optional, but if an election is called, it must be held according to the regulations applicable to the general election.

The campaign of 1910 was not particularly exciting, the capitol question having been virtually settled. There was, however, the problem of tax reform. Governor Donaghey overcame opposition and was nominated for a second term. The new names associated with him on the Democratic ticket were: Earle W. Hodges, Secretary of State; John W. Crockett, Treasurer; Reuben G. Dye, Land Commissioner; Fred H. Phillips, Commissioner of Mines, Manufacturing and Agriculture; W. F. Kirby, Associate Justice; G. W. Bellamy and W. F. McKnight, Railroad Commissioners. The Republicans put up A. I. Roland for sacrifice. September 12 the vote stood 101,612 for Donaghey and 39,770 for Roland, while Daniel Hogan had brought the Socialist vote back up to 9,136.[7] The election is noteworthy as marking the first adoption of the initiative and referendum, which is discussed elsewhere.

In his last administration Governor Jeff Davis had arranged figures in such a way as to make it appear that there was a large surplus in the treasury and had persuaded the Legislature to reduce the State tax levy. This came at an inopportune time, when the State was about to enlarge its activities for which money would be needed. The Legislature now fell into the habit of appropriating very freely, far beyond the expected revenue, and leaving it to the governors to take care of the deficit. About all they could do was to use the veto and risk incurring the hostility of some whose pet schemes had been balked. Fortunately the constitution allowed the veto of items in appropriation bills. But appropriation bills were not considered as a whole. A bill might be passed early in the session and signed by the Governor and later bills might run the appropriations far beyond what the treasury could meet. When a bill was once signed the Governor could not go back and take out items. Governor Donaghey, however, did call before him the heads of certain State institutions and got them to agree not to use certain items which he had approved. With the cutting out of $20,000 for a new laundry at the Deaf

5. Acts of 1895, approved April 20, p. 240. *Kirby's Digest,* Sec. 2892.
6. Acts 1909, Act 165, approved April 13.
7. Herndon, I, 369.

Mute Institute the charge was made by political opponents that the Governor was robbing the poor washerwoman of a means of livelihood!

The thirty-eighth General Assembly convened January 9, 1911. After it had elected H. K. Toney President of the Senate and R. F. Milwee Speaker of the House, Governor Donaghey laid the situation before them in the following words:

> My term as Governor began at a time when our treasury was greatly depleted. For several years the future had been borrowed from to meet the passing exigencies of the State government. Year by year the threatened deficit had been growing greater. Pay-day was bound to come. We have it with us now. . . . At the meeting of the last Legislature the future revenues of the State had been borrowed and used to the amount of $200,000. The General Assembly appropriated for various purposes in the neighborhood of $750,000 more than the income of the biennial period. This, with the amount already borrowed from the future, made the threatened deficit of the general revenue fund about $1,000,000. . . . With the exercise of care and wisdom in your appropriations during this session, and by a wise revision of the revenue laws, these difficulties can be avoided in the future and our revenues increased so that we can keep pace with the march of progress in other States.[8]

The law required that property be assessed at full value. It was well known that the actual assessment ranged from nothing to possibly 100 per cent. in a few cases. The average rate was below fifty per cent. There were two ways to increase the revenue from the general property tax: to increase assessments, or to increase the rates. The tax commission, created in 1909, had some little power over the former. The regular session of 1911 refused to do anything more. But it seemed safe to go after corporations and so they passed a law taxing franchises of foreign corporations doing business in the State, and providing for a more scientific assessment of railroads, express, sleeping car, and telegraph and telephone companies. The owner of that evidence of luxury, the automobile, was required to pay a license fee of $5. Then the Legislature adjourned.

Governor Donaghey did not give up, but at once called a special session to meet May 22: (1) to revise the revenue laws "so as to provide sufficient revenue to meet expenses . . . . and to distribute the burden of taxation and reduce taxation"; (2) to pass an enabling act to make the I. and R. effective; (3) to abolish the convict lease system and reorganize the penitentiary; and (4) to make certain appropriations, including adequate support for the departments of the State government and the charitable institutions.

The Governor had opposed the Federal income tax and had vetoed (ineffectually) a resolution of the Legislature ratifying the Federal amendment on the ground that this source of revenue should be left to the states, but did not include the income tax in his program of reform.

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8. *House Journal*, 1911, pp. 40-41.

Instead one more effort was to be made to reform the general property tax. For this purpose the Turner-Jacobson bill was laid before the Assembly. This gradually increased the assessment and lowered the rate, but the latter was not to keep pace with the former. Under great pressure the Legislature accepted this, but it was held up by the referendum and ultimately defeated.

Before adjourning the special session passed the enabling act for the I. and R. and provided for the removal of the Supreme Court and the Treasury Department to the new capitol, but refused to alter its appropriation bills.

Governor Donaghey considers the building of the capitol the outstanding achievement of his administration. The Legislature of 1909 provided for a new Capitol Commission (Oldham Act) with the Governor at the head. He filled this out by the appointment of John I. Moore, of Helena; R. F. Foster, of Rison; and H. L. Remmel and C. L. Thompson, of Little Rock. They employed a new architect and proceeded to tear out a good deal of the work already done on well established grounds that it was defective. Naturally, the original contractors, Caldwell and Drake, resented this and resorted to the courts for an injunction, but the new commission was sustained.[9] The executive offices were moved in as soon as possible and the work was far enough advanced by 1911 for the Legislature of that year to meet there. This body fell in line and created the Capitol Arts Commission. The building was finally completed in 1914 at the cost of nearly two and a half million dollars. It is recognized today as one of the finest of all Southern capitols.

Although the Legislature had refused to touch the convict lease system, Governor Donaghey determined that something should be done. Accordingly, on December 25, 1912, he startled the State, almost the whole nation, by pardoning 300 convicts. This led to abolition of the lease system.

The national campaign of 1912 was made eventful by the split in the Republican party and the heated contest for the Democratic nomination. The Progressive element in the Republican party felt that they had been betrayed by President Taft and, after the alleged physical breakdown of Senator Robert LaFollette, persuaded ex-President Roosevelt to throw his "hat in the ring" for the Republican nomination. When Taft and Sherman secured the nomination they bolted and organized the Progressive party and nominated Roosevelt and Hiram Johnson. The Democrats were elated over this rupture for every candidate felt sure of election, if he could only get the nomination. At Baltimore Champ Clark, Speaker of the House, led for many ballots, but when "Wall Street" turned to him, W. J. Bryan turned to Woodrow Wilson and was largely instrumental in bringing about his nomination. Thomas R. Marshall,

9. Jobe *v.* Caldwell, 93 Ark., 503-21; 99 Ark., 20-32.

Governor of Indiana, was nominated for Vice-President. The Socialists nominated Eugene V. Debs.

The State ticket consisted of Joseph T. Robinson for Governor and the following new names for the other State offices: John M. Oathout, Auditor; William L. Moose, Attorney-General; John H. Page, Commissioner of Mines, Manufacturing and Agriculture; E. A. McCulloch, Chief Justice, and Frank G. Smith, Associate Justice; J. S. Rowland, Railroad Commissioner. Andrew I. Roland again headed the Republicans and G. E. Mikel the Socialists. In September Robinson received 109,825 votes; Roland, 46,440, and Mikel, 13,384. The Democratic electors were successful in November, but with a much smaller vote, 68,838 to 24,467 for the Republicans, 21,673 for the Progressives and 8,133 for the Socialists.

The "Procession of Acting Governors" was followed by a "Procession of Senators." About the last official act of Governor Donaghey was the appointment of J. N. Heiskell, editor of the "Gazette," to fill out the unexpired term of Senator Davis, who died January 3, 1913. A few days later the Legislature elected W. M. Kavanaugh to serve until March 4 and Joe T. Robinson to enter upon the full term after that date. Mr. Heiskell served only twenty-three days, Mr. Kavanaugh a little over a month.

The Legislature met January 13, 1913, and organized by the election of W. K. Oldham President of the Senate and L. E. Sawyer Speaker of the House. Governor Robinson then delivered his inaugural address.

Joseph Taylor Robinson was born in Lonoke County, August 26, 1872, and is one of the few native sons who have risen to first place. He was educated in the common schools, the University, and studied law in the University of Virginia. He entered the Legislature in 1894 and Congress in 1902, where he served until elected Governor. Since becoming Senator he has achieved still more distinction—minority leader in the Senate, Vice-Presidential nominee in 1928, and delegate to the London Naval Conference of 1930.

The brief term of Governor Robinson was not very eventful except in "politics." The Legislature did nothing to improve the financial situation, but appropriated freely, including $1,500 for an electric chair to abolish hanging; it abolished "tipping" by law, but the law soon became a dead letter; it made some provision for the control of the State banks and created a State Banking Department; it established the Bureau of Labor and passed an employers' liability law, which abolished contributory negligence and assumption of risk as pleas for the defense; it created the State Board of Health and regulated the supply of linen in hotels; it allowed corporations to erect power dams on rivers and passed the "blue sky" law to protect investors; it adopted a State flag, designed by



COURT HOUSE, MALVERN

Mrs. Willie K. Hocker, of Pine Bluff, that the Daughters of the American Revolution might have one to present to the battleship "Arkansas."

March 8, Governor Robinson resigned, whereupon another "Procession of Acting Governors" followed the "Procession of Senators." W. K. Oldham, as President of the Senate, naturally led the procession. But he was serving the last half of his term and the Senate, before adjourning, elected J. M. Futrell, a "hold over." Mr. Oldham, backed by an opinion of Attorney-General Moose that he was Acting Governor, refused to vacate, whereupon Mr. Futrell established himself in another office and both agreed to leave it to the court. The court decided in favor of Mr. Futrell[6] and Mr. Oldham dropped out of the procession.

In obedience to the constitution, Mr. Futrell called an election for July 23. In the Democratic primary (June 21) George W. Hays, of Camden, received a small majority over Stephen Brundidge. Not satisfied, Mr. Brundidge appealed to the State Central Committee and from that to the courts, but the Supreme Court declared that it rested with the committee, not the court, to declare the result of the primary.[7]

George W. Hays also was a native son, having been born in Ouachita County, September 23, 1863. His education was received in the common schools and in the law school of Washington and Lee University. He had been county judge of Ouachita County (1901-05) and was serving as judge of the Thirteenth Circuit at the time of his election as Governor. After the expiration of his second term he returned to the practice of law and remained in that profession until his death, September 15, 1927.

The reëlection of Mr. Hays was contested (1914) by the Republicans and Socialists with the usual results: Hays receiving 94,090 votes; A. L. Kinney 30,987; Daniel Hogan 10,434. L. L. Coffman became Auditor; Rufus G. McDaniels, Treasurer; W. B. Owen, Land Commissioner; J. C. Hart, Associate Justice; and T. E. Wood, Railroad Commissioner.

The Legislature met January 11, 1915, and sat until March 11. The Senate elected Elmer J. Lundy as President and the House chose Lewis E. Sawyer Speaker. In his message Governor Hays called attention to the wretched financial condition, a deficit of approximately $462,438. His first remedy was "strict economy during the next two years." He also called attention to the fact that, according to the Federal census, the property of the State was worth $1,500,000,000, but the assessed valuation was only $450,000,000. The rate of taxation was high enough and he would oppose increasing it, but "if the property could be equitably assessed, we would have plenty of revenue to relieve the State of its indebtedness, make larger appropriations for our educational and charitable institutions and run on a cash basis."

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6. Futrell *v.* Oldham, 107 Ark., 386-401.
7. Brundidge *v.* Walls, 109 Ark., 250-75.

But the Legislature was not interested in this kind of finance and went on in the usual way. It passed a prohibition law to become effective January 1, 1916; changed the date of the State election to November to coincide with the Federal election, saving the expense of one; regulated the hours of employment for women and fixed a minimum wage, the principle of which was later declared unconstitutional by the United States Supreme Court; regulated the weighing of coal at the mines; gave to married women the right to own property, sue and be sued; and ordered that a statue of Judge U. M. Rose be placed in one of the niches of the Hall of Fame at Washington assigned to Arkansas. Judge Rose was one of the most distinguished lawyers Arkansas ever produced and was honored by Roosevelt by appointment as one of the delegates of the United States to the Second Hague Conference in 1907.

The year 1914 witnessed a strike in the coal mines near Fort Smith, which resulted in violence and the destruction of property. The operators brought suit against individuals and the Miners' Union for triple damages under the Sherman Anti-Trust Law and for the destruction of property. The cases were characterized by judgment for the plaintiffs, appeals, reversals, new trials, judgment for defendant, appeals and reversals, dragging on for about fifteen years. One judgment was secured for over half a million dollars, but it was reversed.[8]

While the strike was on a caretaker for one of the mines was murdered and his widow sued the United Mine Workers of America for $100,000 damages, alleging that members of the union had killed him. On appeal, the Supreme Court held that an unincorporated society cannot, in the absence of a statute allowing it, be sued in its own name. It was necessary to name each member.[8a]

In domestic affairs President Wilson and Congress had made such a brilliant record—a sane tariff, the Trade Commission, the Clayton Anti-Trust Law, and the Federal Reserve System—that the Republicans hardly hoped to win by criticisms of that. They finally selected Charles E. Hughes, then a member of the Supreme Court, and Charles W. Fairbanks, of Indiana. Wilson and Marshall were renominated without opposition. Unfortunately a great war had broken out in Europe and the Americans had become divided in sympathy, some being pro-German and some pro-Ally (France, Great Britain and Russia). The Germans violated our neutrality laws and President Wilson announced that he wanted no support by "hyphenated Americans." Mr. Hughes never sided with the Germans, neither did he denounce them. In the end President Wilson won by a narrow majority on the slogan put out by his friends, "He kept us out of war."

President Wilson was, perhaps, the most brilliant example of the

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8. For an example of these cases, see Dowd *v.* United Mine Workers of America, Coronado Case, 242 U. S., 653. For a general account, Current History, XVI, 769-74.

8a. Baskins *v.* United Mine Workers of America, 150 Ark., 398.

"Scholar in Politics" that America has ever seen. Charles Hillman Brough, one of his pupils at Johns Hopkins, came out for the Democratic nomination for Governor in 1916 and won it over an experienced campaigner, Earl W. Hodges. Dr. Brough was born at Clinton, Mississippi, July 9, 1876. In 1893 he graduated with honors at Mississippi College, which was being conducted by his uncle and aunt, Dr. and Mrs. Hillman. Five years later he received the Ph. D. at Johns Hopkins, where he presented a thesis on "Irrigation in Utah." He then served two years as professor of history and economics in Mississippi College, when he entered the law school and received the LL. B. in 1902. After teaching a year in Hillman College he was elected to the chair of economics and sociology in the University of Arkansas. In 1916 he resigned to enter the race for Governor. The degree of LL. D. has been conferred upon him by the University of Arkansas, Baylor University, and Mississippi College. June 17, 1908, he married Anne Wade Roark. He is a member of the Baptist Church and of numerous clubs and fraternal orders.

The other names on the Democratic ticket which had not appeared there at the previous election were: Tom J. Terral, Secretary of State; Hogan Oliver, Auditor; John D. Arbuckle, Attorney-General; J. L. Bond, Superintendent of Public Instruction. The Republicans nominated Wallace Townsend and the Socialists William Davis. Brough led the Democratic ticket with 122,041 to 112,148 for Wilson and Marshall; Townsend received only 43,963, compared to 47,148 for Hughes and Fairbanks. Davis, with 9,730 votes, fell only 230 behind the National Socialist ticket.[9]

When the forty-first General Assembly met (January 8, 1917), the Senate elected W. P. Davenport President and the House elected Lee Cazort Speaker. Some people look upon the scholar as impractical, especially in politics. In his inaugural, Governor Brough jumped into the middle of a bad financial situation and told the Legislature how to remedy it. His first proposal was a short time loan of $750,000 to put the State on a cash basis. He showed that the State warrants were being hawked about at a discount and that the State was losing thousands of dollars by having to buy on a credit with no certainty as to when the debt would be paid. His second proposal was a budget system to control appropriations. He asked for a constitutional convention and pleaded with the solons to give their attention to "constructive legislation of State-wide importance" and not to fritter away the time on local bills.

The Legislature followed him a part, but not all, of the way. The loan of $750,000, commonly called the "Brough Notes," was authorized and the State could buy in the open market for cash. The budget system was a little too much for the solons. However, they did create the audi-

9. Herndon, I, 386.

torial bureau to gather information for the "budget committee" of the two houses. A constitutional convention was called, the election to take place June 26, 1917, the meeting November 19. Each county was to have the same number of representatives that it had in the House and, in order to encourage the election of men of affairs and experience, each Congressional District was given two delegates.

Demands for such a convention had been made from time to time for about twenty years. Now it was to meet. Largely due to the war there were numerous changes in the personnel, the vacancies due to resignations being filled by appointments by the Governor. It met and organized by electing T. M. Mehaffy president and H. G. Combs secretary. Committees were appointed to work on different parts of the constitution and the convention then adjourned to meet again next July. Some said that while a war was going on was no time to make a constitution and that the convention ought to adjourn without a day; but it met again, completed its work and submitted it to the people at a special election December 14, 1918. The result was 23,782 votes for it to 38,897 against. The result may be explained by the fact that it contained several provisions to one of which a good many were opposed, such as prohibition, increase of the membership of the Supreme Court, woman's suffrage, and a rather elaborate initiative and referendum. The first had already been enacted into law, the third was soon realized by Federal amendment, and the other two have since been secured by State amendments.

In 1918 L. C. Smith decided to contest the renomination of Governor Brough, but failed to defeat him. Messrs. Terral, Oliver, Arbuckle, Bond and Owen were renominated for the position they had already held. Joseph Ferguson was named for Treasurer; Jim G. Ferguson, Commissioner of Mines, Manufactures and Agriculture; T. H. Humphreys, Associate Justice; T. E. Wood, Walter G. Brashear and Herbert Wilson Railroad Commissioners. The Republicans put out no ticket. The election (November 5) brought out a light vote, 68,191 for Brough and 4,792 for Clay Fulks, Socialist.[10]

January 13, 1919, the Legislature met and Harry L. Ponder was elected President of the Senate and Clarence P. Newton Speaker of the House. Governor Brough had some good news to lay before the Assembly, showing that there was a cash balance of $168,259.06 in the treasury, which, he said, was more than enough to take care of "all unvouchered claims." This was largely due to the "note" issue of $750,000, but the revenue system still needed overhauling. The failure of this session to do certain things—to pass the appropriations bills and the millage tax for higher education—and the demand for the resubmission of the constitution and for road legislation led to the calling of a special session

10. Herdon, I, 391.

July 28, another September 22, and the "fourth quarterly conference" assembled January 26, 1920. One of these sessions was made necessary by the discovery that all the proceedings of the former session (1919) were illegal because of failure to observe the requirements of the constitution.[10a]

The years 1917-19 are noteworthy because of the extension of governmental activity as marked by the creation of new boards and bureaus or extending the activities of old ones. Several of these are dealt with elsewhere.[11] Among the others may be mentioned the establishment of a free employment service in the Bureau of Labor; the Department of Insurance and Fire Prevention; the Corporation Commission as a substitute for the Railroad Commission; provision for a State General Hospital, which never was carried out; inspection of kerosene and gasoline; a Bureau of Crop Estimates and Immigration; the extension of municipal courts to cities having a population of 12,000 or more; the establishment of juvenile courts in several counties; a model farm under the direction of the Agricultural Experiment Station; the appropriation (1919) of $158,444.45 to meet the donation of the United States for the extension work in agriculture and home economics; and of $1,400 for a silver service for the battleship "Arkansas." The "bone dry law" was passed to put additional "teeth" into the prohibition law of 1917 by forbidding the transportation of intoxicants or the possession of stocks.[12]

The forty-second General Assembly outdid all of its predecessors in the evil of local and special legislation. This is largely due to the fact that it came at a time when special road improvement districts were the order of the day. Many people wanted to get out of the mud and the only way they knew to finance a road was to tax the real estate bordering it. This resulted in short belts of roads, starting nowhere and leading nowhere. It was a day of trial and error. Fortunately the people were wise enough to see the error and mended their ways. But while on the wrong road the road laws of the Legislature alone filled two large volumes. The special acts filled a third large volume and the general acts another, making four large volumes in all. This helped to bring about the amendment killing all local legislation.[13]

The year 1919 was marked by race troubles in Phillips County, which were reported on the front pages or in prominent places in the newspapers throughout the Union. Incontrovertible facts about the origin of the trouble are hard to obtain, but a few things may be stated as fairly reliable.

The trouble occurred in a region devoted to the raising of cotton on the plantation system, the land being owned by whites and most of the

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10a. Booe *v.* Road Improvement District No. 4, 141 Ark., 140.
11. See a later chapter.
12. Acts of 1919, pp. 75-81.
13. See infra, p. 325.

labor being performed by negroes. The negroes claimed that they had had some trouble in getting settlements. This year a meeting was held at a negro church to discuss ways of getting such settlements. While they were in session the deputy sheriff came along, accompanied by another man, and stopped near the church because of alleged car trouble. One account says that the negroes fired first, another that the whites opened fire. The deputy sheriff was wounded, his companion killed. This occurred October 1, 1919. Next day some officers went to Elaine and Hoop Spur to arrest those who had killed the white man the night before, but they were fired upon and one was killed. Panic fear seized the whites, who were in the minority in that region, and terror seized the negroes and the killings continued for several days until five whites and twenty-five negroes, some say 100, were dead. Governor Brough sent United States troops to Helena and they restored a semblance of confidence and order. He also appointed a committee of seven (whites) to investigate the cause of the disturbance and they published a report that the trouble had grown out of a well-matured plan of insurrection by the blacks against the whites. This was later shown to be incorrect, but at this time it only aggravated the situation.

Many indictments were secured against the negroes and eleven were sentenced in Phillips County to the electric chair and several others to the penitentiary. The American Association for the Advancement of the Colored People took up the cause of the negroes and secured eminent counsel, among them Moorfield Story, George W. Murphy and E. L. McHaney, the last now (1930) being a member of the Supreme Court of Arkansas. The cases dragged on for three years, resulting in convictions, reversals, affirmations, change of venue, new trials and convictions. June 10, 1921, was set for the day of execution, but June 8 the Chancery Court issued an injunction against it, whereupon the Supreme Court decided that the Chancery Court had no jurisdiction. The Federal Court was then asked for a writ of habeas corpus against the keeper of the penitentiary, but Judge Jacob Trieber refused to grant it. On appeal, Justice Oliver Wendell Holmes, speaking for the United States Supreme Court, reversed this decision.

Prosecution was now virtually dropped and two terms of the court went by without trial, although the accused were ready and calling for it. Application was now made for the discharge of the prisoners on this ground, as the statutes directed, and on appeal, Mr. Justice Carroll D. Wood, speaking for the Supreme Court, ordered the sheriff of Lee County to turn them loose.[14]

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14. For newspaper accounts see *Helena World*, October 2-8, 1919, and occasional later dates; *Arkansas Gazette*, *Arkansas Democrat*, and Memphis *Commercial-Appeal* of same dates. For the cases, see Banks *v.* State, 143 Ark., 154; Hicks *v.* State, *Ibid.*, 158; Ware *v.* State, 146 Ark., 321; Frank Moore, Ed Hicks et al. *v.* E. H. Dempsey, 261 U. S., 86; Ware *v.* State, 159 Ark., 540.

Having been an educator himself, Governor Brough naturally was interested in that subject. During his administration the text-book commission and the illiteracy commission were created; a compulsory school attendance law was passed; a board of education was established in every county. One of Governor Brough's pet measures was a millage tax for higher education. Heretofore the heads of the State schools had been compelled to go to the Legislature and beg for sustenance. Ofttimes they went away with less than a whole loaf—it was not there to give. Governor Brough secured, from the Legislature of 1917, a "millage" tax of one and one-ninth mills for the benefit of the State schools, of which the University received four-ninths.[15] In 1921 the whole State tax, eight and seven-tenths mills, was levied for specific purposes, the University at this time being given one mill, the four agricultural colleges six-tenths, the State College at Conway two-tenths, and the Branch Normal (colored) at Pine Bluff twelve-one hundredths of a mill.[16] Now the State schools know what they can depend on for running expenses, but are still dependent on the Legislature for buildings. Governor Brough found the State in the financial slough of despond and brought it to its feet by the "note" issue, but was unable to persuade it to a reformation of its financial system. That took more time. Nominally the country was at peace when he entered office, but soon was plunged into war. Governor Brough exerted all his energies to see that Arkansas did her duty. In 1921 he retired to private life.

15. Acts of 1915, pp. 631-32.
16. Acts of 1921, p. 467f.

CHAPTER XXVIII.

GOOD ROADS AND GOOD SCHOOLS.

By David Y. Thomas.

The year 1920 was a Presidential year. President Wilson had asked for a "solemn referendum" on the League of Nations and the Republican convention met in Chicago to decide upon its attitude and its candidates. Many prominent party leaders favored the league, but a few determined men picked a candidate, Warren G. Harding, of Ohio, whom they were able ultimately to bring over to complete opposition. The Democrats met in San Francisco June 28 and Arkansas was honored in that Senator Joe T. Robinson was elected President of the convention. This body committed itself to the league with such reservations as would not weaken it and nominated James M. Cox, of Ohio, and Franklin D. Roosevelt, of New York. The Socialists stood by their time-honored leader, Eugene V. Debbs, who was then serving a sentence in the Federal prison at Atlanta for actively opposing the war. A "Committee of Forty-eight" tried to organize a Farm-Labor party and nominated candidates, but the effort amounted to nothing.

In Arkansas nine candidates contested for the gubernatorial nomination. This resulted in a great division of the electors and the successful candidate, T. C. McRae, received only about twenty-six per cent. of the vote. The chief planks in the platform called for economy by the abolition of useless offices, tax reform, prison reform, and the promotion of education; also, the abuses in road legislation were pointed out and remedies suggested. The other nominees were: Ira C. Hopper for Secretary of State, James Guy Tucker for Auditor, Joseph Ferguson for Treasurer, J. S. Utley for Attorney-General, J. L. Bond for Superintendent of Public Instruction, Herbert R. Wilson for Commissioner of Lands and Highways, E. A. McCulloch for Chief Justice, and Frank G. Smith for Associate Justice. W. F. Kirby was standing for reëlection to the United States Senate, but was defeated by T. H. Caraway, largely because he had not stood loyally by the Wilson program.

The "Lily White" element controlled the Republican party and nominated Wallace Townsend for Governor. The negroes showed their resentment of this treatment by nominating James Blount.

The Democratic ticket, both State and National, carried by large majorities in Arkansas. McRae defeated Townsend 123,604 to 64,339. The strength, or weakness, of the negro vote is shown in the fact that Blount received only 15,629. Caraway was sent to the Senate and the following to the House of Representatives: W. J. Driver, W. A. Old-

field, J. N. Tillman, Otis Wingo, H. M. Jacoway, S. M. Taylor, and Tillman B. Parks.

The Legislature organized by the election of Lee Cazort President of the Senate and Joe Joiner Speaker of the House. January 12 Governor McRae was inaugurated.

Thomas Chipman McRae was born in Union County, Arkansas, December 21, 1854. His father, Duncan L. McRae, was born in North Carolina, but came of the McRae clan of Scotland. His education was limited because his youth and early manhood came in the evil days of Reconstruction. In spite of this he graduated from the Law School of Washington and Lee University. Perhaps these facts help to explain his unflagging interest in improving the schools. He began the practice of law in 1873 and three years later entered public life when elected to the Legislature. Much of the time after that he was in public service. In 1885 he entered Congress and retired voluntarily in 1913. While there he worked steadily for an income tax. On leaving the Goveror's office he resumed the practice of law and engaged in banking. He was a member of the Presbyterian Church and several fraternal orders and gave freely to charity. He married Miss Amelia Ann White, December 17, 1874, and of this union five children were born: Ethel, Mary, Thomas C., Duncan L., and Mildred. He died at Prescott of influenza June 2, 1929.[1]

In his inaugural address Governor McRae recalled the promise of the platform and began on useless offices, called attention to the "amazing indebtedness of the penitentiary" ($300,000), declared that he would not deal with pardon brokers and would exercise executive clemency very sparingly, and recommended the abolition of the Corporation Commission; he showed that the commission had spent $63,156.61, while the Railroad Commission had spent only $20,450.02, and the former was now asking for $120,000; also, that it was impossible for a commission of three members adequately to supervise the multitude of utilities of the State; he recommended the reorganization of the Highway Department with an honorary board attached to the office of the Commissioner of Agriculture, Mines and Manufacturing; declared that the improvement district plan of building roads was worse than a failure and advised the repeal of all local or special acts for road building; recommended larger funds for education and that steps be taken to remove the "hideous illiteracy" which was stalking abroad over the land.[2]

When Governor McRae attacked the paid boards he met with opposition. The beneficiaries of this system, said he, offered a compromise, but he stood firm for the abolition of the Corporation Commission, the Tax Commission, the Board of Control, and the Penitentiary Commission, all salaried, and the State Highway Department as then constituted. He

1. *Arkansas Gazette*, June 3, 1929.
2. *House Journal*, 1921, pp. 83-93.

succeeded in part, but the Board of Control held on until 1923, when it was abolished for an honorary Board of Control for State Charities. In his "farewell address" to the Legislature of 1925 he congratulated that body upon the success of the system. Scarcely had his words died away when the new Governor, Tom J. Terral, advised the abolition of eleven boards and the substitution of a paid board of three members. He claimed that these boards, composed of sixty-three members, meeting once a month, could not perform their duties properly, yet cost the State more than one full-time board would cost. Practically all he asked for was granted by the Legislature,[3] but a storm of protest was raised over this change and contributed to the defeat of Governor Terral in the next election, and the next Legislature returned to the honorary boards.[4]

No important road legislation was enacted by the Legislature of 1921, but a good deal of destructive work was done in the abolition of many improvement districts. Such abolition where contracts had already been let led to suits by contractors for anticipated profits, some of which revealed the scandalous cost of this method of building. Among the acts passed were the following: changing the date of the State election from November to October; abolishing the Corporation Commission (many petitions had come up for this) and restoring the Railroad Commission; permitting women to hold office; strengthening the school attendance law; legalizing the organization of coöperative associations for the marketing of farm produce.

The campaign of 1922 was not particularly exciting or interesting. E. P. Toney came out in opposition to the renomination of Governor McRae, but he received only 53,594 votes in the primary to 127,884 for the Governor. The other successful candidates were: Ira C. Hopper for Secretary of State; James Guy Tucker, Auditor; Joe Ferguson, Treasurer; J. S. Utley, Attorney-General; A. B. Hill, Superintendent of Public Instruction; Jim G. Ferguson, Commissioner of Mines, Manufacturing and Agriculture; Herbert R. Wilson, Commissioner of State Lands, Highways, and Improvements.

The State convention was notably small in attendance, but large in harmony and enthusiasm. The first day it sent a telegram of greetings to ex-President Wilson and said: "We believe the principles which you so ably advocated as President are immortal and we express the earnest hope that they may be vindicated in your lifetime." The platform endorsed McRae's administration in unqualified terms, especially the handling of the penitentiary problem, and adopted his program. This included economy and the further abolition of useless offices; the promotion of education and agriculture; a severance tax; conservation, and condemnation of local legislation.[5]

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3. Acts of 1925, pp. 154-59.
4. Acts of 1927, p. 105.
5. *Arkansas Gazette*, September 6, 7, 1922.

The Republicans put out a State ticket, but made very little headway. The vote was 99,987 for McRae, 28,055 for J. W. Gabriel. The Arkansas delegation in Congress remained unchanged, except Hartsill Ragon succeeded H. M. Jacoway and James B. Reed succeeded S. M. Taylor.

The new Legislature met in January and elected Jake Wilson President of the Senate and Howard Reed Speaker of the House. In his message to this body (1923) the Governor dwelt upon tax reform and suggested the abolition to the State property tax and the imposition of other taxes, "such as insurance, inheritance, income, business and franchise." Profits rather than property should be made the basis of taxation. The increase he proposed to devote to education to meet the "crisis" then existing. Many of the schools would have been closed except for private beneficence. The public lands should be transferred to the permanent school fund. He had avoided deficiency proclamations. He called attention to the bad financial condition of counties whose warrants ranged from twenty cent to one dollar and suggested that the issuance of warrants in excess of the revenue should be prohibited, a suggestion repeated in 1925. For road money he suggested an increase in the motor and gasoline tax on the ground that the users of the roads should pay for them. He asked for a law to prevent or restrict the great waste oil in the oil fields; also, for a Negro Boys' Industrial School in order to get such boys out of the penitentiary.

The Forty-fourth General Assembly (1923-25) followed some of Governor McRae's suggestions, but not all. A severance tax was levied and at a called session (1924) a cigar and cigarette tax was laid for the public school fund. All but four of the acts enacted at this special session went for naught, although the session cost $35,000, for the Supreme Court declared them null and void because they did not come within the topics specified in the Governor's call.[5a] Another session was then called at an expense of $25,000 to reënact the cigar and cigarette tax. The offer of Congress for the rehabilitation of persons disabled in industry or otherwise was accepted and an appropriation of $150,000 was made for vocational education. Free tuition was granted to honorably discharged veterans of the World War.

The regular session did not levy an income tax such as Governor McRae had in mind, but a tax of $1 on each $1,000 of gross income. Such a tax was unscientific, was almost unworkable, and the Supreme Court declared it void "as in effect a tax upon interstate commerce, and as operating in a discriminatory and arbitrary manner." But this decision paved the way for a real income tax, for the court went on to say that the Legislature had the power to pass a properly classified net income tax law, and that such a law would be neither a property tax nor

5a. Sims *v.* Weldon, 165 Ark., 13-30.

an occupation tax.[5b] The next Legislature repealed what was left of the gross income tax law. The tax commission was abolished and its duties transferred to the Railroad Commission. This commission was authorized to grant franchises to water power companies, to regulate the capitalization stock companies, and to prevent stock watering. A law was passed for the conservation of oil and gas, and one for the registration of births, deaths and divorces. Members of the Supreme Court who had served ten consecutive years and had attained the age of seventy were allowed to retire on full pay. Hon. Carroll D. Wood, who went on the bench September 19, 1893, and retired May 20, 1929, was the first to take advantage of this law.

Nothing was done toward the reorganization of the road program except the passage of a law imposing a tax of three cents on gasoline, which was a step in the direction of making the users of the roads pay for them, and the abolition of a number of special road improvement districts.

But the people were becoming impatient and were demanding that something constructive be done. To meet this demand a special session was called and the Harrelson road law was passed and approved October 10, 1923. The Highway Commission was reconstructed to consist of the Commissioner of Lands, Highways and Improvements and four honorary members, one from each of the four agricultural school districts. The State highways were declared to be the primary roads and secondary roads and connecting State roads heretofore designated by the Highway Commission, approved by the Governor, and tentatively approved by the Federal authorities. A State highway fund was provided by a tax of four cents on gasoline, ten cents on motor oil and graduated motor license fees. The use of county and State convicts on the roads was allowed. At the time this road law was considered a great forward step, but the system was soon to be very considerably changed.

In his "farewell address" to the Legislature of 1925 Governor McRae again advised the passage of an income tax. This advice was not taken at the time, but the retiring Governor lived to see such a law on the statute book. He also advised that provision be made for free text-books in the schools, that four more agricultural schools be created for whites and one for negroes. That his interest in education was deep-seated and genuine is attested by the fact that one-fifth of this address was devoted to this subject.

Very little was actually accomplished in tax reform in Governor McRae's administration, but he gave an impetus for reform. He called an unofficial conference on the subject at Little Rock and this body, while not fully agreed, laid the foundation for tax measure adopted

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5b. Sims *v.* Ahrens, 167 Ark., 557-601.



Route 72, in Carroll County, four miles northwest of Eureka Springs.



Route 14, between Harrisburg and Marked Tree, in Poinsett County.



Route No. 9, between Melbourne and Oxford, in Izard County.

SCENIC ROUTES IN ARKANSAS

since that time. The leaders among reformers were Dr. George Vaughan and Professor J. S. Waterman.

Shortly after the death of President Harding in 1923 scandals began to come out about the rottenness in the offices of some of his appointees. Among them were Charles R. Forbes, whose recklessness and misconduct in the office of the Director of the Veterans' Bureau had cost the government $200,000,000. A. B. Fall, Secretary of the Interior, had accepted large gifts for leases on the government oil reserves. These leases were afterwards annulled and Fall was convicted. The conduct of Attorney-General Daugherty, a member of the "Ohio Gang," brought on so much criticism that President Coolidge called for his resignation, and Mr. Denby, Secretary of the Navy, resigned after the Senate had passed a resolution to the effect that he ought to get out. President Coolidge had not appointed any of these men and the country did not hold him personally responsible for their misconduct, though many thought that he ought to have been more active, instead of sitting in silence, in bringing the rascality into the open. But he was nominated by the Republicans, although Congress was not following his advice and was overriding his vetoes.

The Democratic leaders looked on with some feelings of shame for the betrayal of the country, but with some glee over the violations which seemed to portend their return to power. But sharp divisions were developing among them. William G. McAdoo, son-in-law to President Wilson, and formerly his able Secretary of the Treasury, was the favorite of the agricultural and "dry" South and West; Governor Alfred E. Smith, of New York, was the favorite of the industrial and "wet" East; and he was also a Catholic. The former was somewhat handicapped in the North and East by the support of the new Ku Klux Klan, which was "dry" and anti-Catholic. A bitter and prolonged fight was staged in the convention at New York (June 24-July 10) and one hundred and three ballots were taken before it could agree on John W. Davis, of West Virginia, and Governor Charles W. Bryan, brother of William J. Bryan. Senator Joe T. Robinson's name was among those receiving votes for nomination for President, some coming from outside his State. The Progressives nominated Robert M. LaFollette, of Wisconsin, and Burton K. Wheeler, Democrat, of Montana.

The campaign for the Democratic nomination for Governor was spirited, but not particularly exciting. There seems to be a sort of understanding that the "runner up," that is, the second in any race, has the advantage next time. But there were five candidates, John E. Martineau, Hamp Williams, Jim Ferguson, Lee Cazort and Jake R. Wilson, ready to contest with Tom J. Terral, the second man in the race in 1920. Mr. Terral had not contested the reëlection of Governor McRae in 1922 and he seemed to start out with an initial advantage. The issues were roads,

though nobody seemed to know exactly what to do about them, and the Ku Klux Klan. Mr. Martineau claimed that he was the only anti-Klan candidate. The Klan was very active this year, but just what influence it had on the election would be hard to say. Mr. Terral secured 45,675 votes out of a total of 177,177.[6] Lee Cazort came next with 38,024, Martineau third with 31,966. The other nominees were: Jim B. Higgins, Secretary of State; J. Carrol Cone, Auditor; Sam. S. Sloan, Treasurer; H. W. Applegate, Attorney-General; Herbert R. Wilson, Commissioner of State Lands, Highways, and Improvements; William N. Wilkes, Commissioner of Mines, Manufactures and Agriculture; A. B. Hill, State Superintendent, and Carroll D. Wood, Associate Justice of the Supreme Court.

The Republicans again put out a State ticket headed by J. W. Grabiel. The result was: Terral 100,606, Grabiel 25,154. Attention is called to the fact that the combined Democratic and Republican vote in November was over 50,000 less than the vote in the Democratic primary. The Democratic electors were successful, Senator Joe T. Robinson was elected, and a solid Democratic delegation returned to the House of Representatives with no changes in personnel.

When the Legislature met Robert Bailey was elected President of the Senate and Thomas A. Hill Speaker of the House, and the new Governor was inaugurated.

Tom J. Terral was born in Union Parish, Louisiana, December 24, 1882, but moved to Arkansas in early life. He was educated at the Kentucky State University and the old Law School of the University of Arkansas (Little Rock), where he received the LL. B. He entered public life soon after beginning the practice of law and has held the following positions: Assistant Secretary of the Senate, 1911; Secretary, 1913, 1919; Assistant in Department of Public Instruction, 1912-16; Secretary of State, 1917-21; and Governor, 1923-25. He married Miss Eula Terral, February 24, 1914. He is a member of the Baptist Church. In his inaugural address Governor Terral called attention to the fact that the Legislature had been putting too many employees on its pay roll. He also condemned the too free use of the emergency clause, which Governor McRae and the State convention had condemned before. He called attention to the collection of $30,000 a year in the highway department by requiring the attestation of a notary public for the issuance of an auto license and recommended that this be prohibited under penalty of $500. He also advised that the Harrelson law be amended and that the Highway Commission be reconstituted. The Game and Fish Commission, consisting of five commissioners, plus a high salaried secretary, several clerks and stenographers, and a number of wardens at a cost of $160,000, should be abolished. This sum could be used to maintain schools for 2,060 children in fifty-seven districts

6. *Arkansas Gazette*, Aug. 15, 1924.

where there were no schools at all and lengthen the terms for 3,834 children in sixty-four districts with a term or less than three months. He recommended the abolition of eleven boards, the office of Inheritance Tax Collector and the consolidation of the revenue collecting agencies and of the inspection and conservation agencies. The granting of free passes by the railroads should be prohibited. The act of 1887 had penalized the granting of passes to any officers—legislative, executive, or judicial—but it had been modified several times, until 1923, when the Legislature not only permitted itself to accept passes, but sought to compel the railroads to grant them. He advised a run-off primary.

The Legislature was inclined to follow the Governor in several particulars. What was done with the honorary boards has already been given.[7] The Department of Conservation and Inspection was created; the gross income tax was repealed; the cigar and cigarette tax was reënacted; the university was allowed to issue bonds to the extent of $650,000 for two new buildings; a loan fund of $35,000 was provided for students at the university; auto licenses need no longer be sworn to before a notary public; the quorum court was allowed to aid children's hospitals; the making of carbon black out of natural gas was prohibited; and cosmetic and beauty culture practice was regulated.

The substitution of a paid board for the honorary boards and commissioners raised a storm of protest and became an issue in the next campaign. A tradition had grown up that a Governor should have a second term. Some one was always ready to run counter to this tradition, but few candidates ever gave a Governor seeking reëlection much trouble. Now it soon became clear that Governor Terral would have to fight for reëlection. Judge Martineau's supporters stressed the matter of the boards, but trod lightly on roads without any very definite commitment; Governor Terral and his supporters warned the voters that the heavily bonded districts were seeking to unload on the State to the extent of $60,000,000. An unusually large vote was cast, 115,558 for Martineau, 101,593 for Terral.[8] For the first time a Governor standing for a second term had been defeated.

This time M. D. Bowers headed the Republican ticket. The result in the general election was 116,735 for Martineau, 35,879 for Bowers. For the other positions Harvey Parnell was elected the first Lieutenant-Governor; Jim B. Higgins, Secretary of State; J. Carrol Cone, Auditor; Ralph Koonce, Treasurer; H. W. Applegate, Attorney-General; J. P. Womack, Superintendent of Public Instruction; William N. Wilkes, Commissioner of Mines, Manufacturing, and Agriculture; Dwight H. Blackwood, Commissioner of Lands, Highways, and Improvements. T. H. Humphreys was elected to succeed himself on the Supreme Bench and

7. See *supra.*, p. 298.
8. *Arkansas Gazette,* August 14, 1926.

J. W. Mehaffy and William F. Kirby to fill the two new places. Mr. Mehaffy was killed in an accident before taking office, and his father, Tom M. Mehaffy, was appointed to take his place. T. H. Caraway was reëlected to the Senate and House delegation remained unchanged.

When the Legislature met the Lieutenant-Governor assumed the duties of President of the Senate and Thomas A. Hill was again elected Speaker of the House. In a lengthy address to the Legislature Governor Terral gave a review of his administration, had a good deal to say about schools and State institutions, advised the strengthening of the primary law, especially in publicity in counting the ballots, defended the abolition of the honorary boards, saying that he had saved the State $125,000, and warned against the impending road bond bill.

John E. Martineau was born in Clay County, Missouri, December 2, 1873. He received the A. B. from the University of Arkansas in 1896, the LL. B. from the law school (Little Rock), 1899; also the LL. D. from the university in 1928. He helped to pay his way through the university by teaching, 1891-1900. He served in the Legislature as representative of Pulaski County, 1903-05. He was made chancellor of the First Chancery Circuit in 1907 and served until 1927, when he was inaugurated as Governor. He resigned as Governor in March, 1928, to become Federal Judge of the Eastern District of Arkansas. He married Miss Mabel Erwin Thomas, of Des Arc, May 1, 1919. He is a Methodist, Mason, Knights of Pythias and Kappa Sigma. In a brief inaugural Governor Martineau came out for the restoration of the honorary boards and this was soon done. He took as his slogan, "Better Roads and Better Schools." Although he had avoided a direct commitment on the subject in the campaign, he now told the Legislature that a bill would be introduced taking over the road bonds issued in the various counties and providing for the payment of interest and principal at the rate of $6,500,000 in a year; also, the issuance of bonds to the extent of $13,000,000 a year for four years for construction. These bonds were to be taken care of out of the proceeds of the tax on gasoline and auto licenses.

This program was a practical application of the principle already advocated by others, but never put into effect, of making the users of the roads pay for them. The Legislature soon enacted the proposals into law. The State Highway Commission as constituted under the Harrelson law was continued.[9] County courts were authorized to grant toll bridge franchises subject to approval by the Highway Commission. The Highway Commission itself was authorized to construct toll bridges on State highways with the provision that the bridges should be free when paid for out of the tolls. For the period of 1927-30 the commission was directed to allot twice as much for construction as for the retirement of district bonds, after that, at least as much.

9. Acts of 1927, p. 352ff.



NEW SENIOR HIGH SCHOOL, 14th & PARK AVENUE, LITTLE ROCK

Governor Martineau seconded the program of the educators and helped them put through the equalization bill, which is described elsewhere. For funds to make this real Governor Martineau advocated an income tax. Such a bill was introduced and was about to become a law, but a few of the moneyed interests who would have been affected by it besieged the Legislature and succeeded in blocking the passage. There were rumors of bribery, but there were no indictments. When the bill was defeated Governor Martineau announced that he would not bring it up again. Some called upon the opponents for a constructive program, but all they had to offer was to wait until the increase of wealth had provided the necessary funds through the regular means of taxation.

Confederate Pensions—A rather remarkable piece of legislation was the act creating the Confederate Pension Board and authorizing it to issue bonds to secure funds for pensions. The board was to consist of the Governor and four appointive members, two of whom must be sons of Confederate veterans. This board was authorized to issue "notes" (bonds) as follows: $3,000,000 in 1927; $2,750,000 in 1928; $2,500,000 in 1929; $2,000,000 in 1930; $1,750,000 in 1931; $1,250,000 in 1932, and $750,000 in 1933. These "notes" were redeemable in two to thirty years and a two mill tax was levied for this purpose. The appropriations for 1927-28 was $1,170,000; for 1928-29, $1,185,000.[10] This bill met a good deal of hostile criticism, especially from some who had fought the income tax. But the incontrovertible fact was pointed out that Arkansas was dealing far more generously with the Confederates than any other State, that her appropriations amount to considerably more than those of Virginia, which furnished far more troops. The law is an invitation to veterans to move into the State, for it makes no difference where he lived when he entered the service. He is eligible after one year of residence.

A law passed in 1915 prescribed the rules for placing names on the roll. The applicant must affirm that he is a Confederate veteran, or the widow of a veteran, and that he (or she) does not own property worth more than $500, or does not have an income of more than $250 a year. Widows born after 1878 are not eligible. The Legislature some times followed the practice of putting names on the list by special act.[10a] Complaint was made that many names were on the roll which should not be there and provision was made for purging the rolls, but few, if any names were ever stricken off. In May, 1930, 5,207 names were on the roll, only 1,190 being veterans.[11]

The pay of the legislators, $6 per day and traveling expenses, was not high enough to satisfy the desires of the rising statesmen. Previous bodies had supplemented by liberal allowances for stamps, one being for

10. Acts of 1927, p. 621.
10a. For example, see Acts of 1913, pp. 860, 959, 1065.
11. *Arkansas Gazette*, May 20, 1930.

$50 per member. The Legislature of 1927 broadened the character of the extras, as the following table, prepared by the Hon. Carroll Cone, Auditor, will show:[12]

ITEMIZED CASH ACCOUNT OF SENATE.

35 members, per diem	$12,600.00
Mileage	895.60
Committee expense	290.09
Postage for 32 members at $120 each and Senator Warnock $20, Senators Bryan and Beasley refused to draw issue of $120 in postage	3,980.00
Postage for Secretary of Senate	60.00
Holdover Committee	750.00
Salary of employes	23,028.00
Office supplies	803.86
35 brief cases	332.00
Office supplies	614.50
Office furniture and supplies, lieutenant governor's office	764.00
53,000 lithographed envelopes	331.93
43,000 lithographed letterheads	205.57
40 steel lockers	433.00
Overprinting 18,500 letterheads	89.25
Overprinting 18,500 envelopes	48.75
50 fountain pens	250.00
Two fountain pen sets	20.00
Mimeographing	5,772.00
Printing calendar	2,404.00
Printing 10,000 copies Act No. 11	786.00
One vacuum cleaner	54.50
Three Line-a-times	64.24
Painting office of president	40.00
Janitor supplies	27.90
Keys and repairs	37.25
Telephone service	45.93
Drinking water	25.50
Telegraph service	6.06
Rent on typewriters	156.00
Picture frames	3.00
Rent on typewriter	12.00
50 pocket knives	150.00
W. L. Funk, salary and expenses on investigation	451.00
Drinking water	65.00
Rent on piano	5.00
Janitor supplies	4.00
Total	$55,279.93

ITEMIZED CASH ACCOUNT OF HOUSE.

100 members, per diem	$36,120.00
100 members, mileage	2,592.40
To members, committee expense.	653.39
Postage to 100 members	12,000.00
Postage to chief clerk	120.00
Holdover Committee	750.00
Employes' salary	18,965.00
Office supplies	618.95
Five fountain pens	12.37
One fountain pen	2.48
Office supplies	1,136.10
625,000 lithographed envelopes	675.00
Overprinting 95,500 envelopes	203.35
Overprinting 102,000 letterheads.	151.65
110,000 lithographed letterheads	509.00
99 fountain pens	297.00
Mimeographing	$12,807.75
Printing calendar	2,591.00
Rent on typewriters	148.10
Drinking water	22.50
Keys and repairs	41.60
Hospital bill for Harvey McGehee	104.20
Janitor supplies	91.15
Drinking water	67.00
Pocket knives	297.00
Nan B. Murphy, hospital bill	150.00
Printing ex-Gov. Terral's speech	1,198.00
Rent of piano	5.00
Otis Ward, hospital bill	100.00
Towels	98.80
Audit of penitentiary records	1,053.45
Ray McLester, hospital bill	250.00
Telephone service	36.39
Rent on typewriters	111.00
Total	$93,889.62

The Floods of 1927—Before the adjournment of the Legislature, Arkansas witnessed the beginning of the greatest flood, measured by amount, duration and loss of life and property, in the recorded history of the State. A flood occurred in 1542 (1541?), which, as recorded by de la Vega in his history of De Soto's Expedition, may have approached it in magnitude, but the writer left no accurate measurement. He tells us that it began the first part of March and lasted into May, that it rose to the top of the cliffs and nothing was seen but the top of the tallest trees,[13] but we

12. *Arkansas Gazette*, March 20, 1927.
13. "The Floods of 1927," in *Monthly Weather Review*, Supplement No. 29 (Washington, 1927), p. 10.

are not sure just where this was. The floods of 1881-82 may be compared to that of 1927, but fell below it.

Excessive rains began in the mid-summer of 1926 in the upper Mississippi Valley on the west side and continued to the close of the year, extending to the southwest. By the middle of December the ground was thoroughly soaked and heavy rains set in again soon after. There is a popular belief that floods are due to deforestation which leads to the rapid melting of snow. The country had not been deforested in 1542 and all the evidence shows that the melting snow had very little to do with the flood of 1927.[14] This time it was due to excessive and prolonged rainfall. The flood stage had been passed at Memphis by January 8, 1927. The flood stage at Little Rock is 23 feet. January 26 the water stood at 20.5 and by April 21 it had gone to 60.5. By June 25 it had fallen to 19.8.[15]

The flood crest requires a full month or more to travel from Pittsburg to New Orleans. Because of this the Weather Bureau was enabled to send out timely warnings which resulted in the saving of many lives and much property. People with small means are generally reluctant to abandon their scant holdings, hoping against hope, and sometimes it was necessary to use persuasion but little short of force to get some out of danger. The reported savings of property from timely warnings were estimated at $29,939,200, of which $472,000 was credited to Fort Smith and $1,584,000 to Little Rock.[16]

Arkansas is exposed to danger, not only from the border streams, the Mississippi, and the Red River, but also from her own rivers, the St. Francis, White, Arkansas, Ouachita, and smaller streams. A total of 4,224,000 acres was submerged, being exceeded only by Mississippi with 5,032,000. The crop lands flooded in Arkansas amounted to 1,839,400 acres, the next nearest being Louisiana with 1,112,200 acres. It is impossible to tell the exact property loss for Arkansas alone. Tennessee, Kansas, Oklahoma, Mississippi, Arkansas and Louisiana combined sustained losses amounting to $135,268,868. In loss of life Arkansas stood first, 127 out of a total of 214.[17]

The United States Government came to the rescue of suffering citizens. The War Department showed that it could be a humane agency and did splendid work in saving life and property; also, in furnishing tents to the homeless and food for the hungry. The American Red Cross came at once and stayed as long as needed. Governor Martineau coöperated in every way and issued deficiency proclamations to the extent of $76,245, the Legislature not being in session.

Following the recession of the flood the question of health became an important one. The State Department of Health was not equal to the

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14. *Ibid.*, 16.
15. *Ibid.*, 17.
16. *Ibid.*, 36.
17. *Ibid.*, 35.

unparalleled situation and the United States Public Health Service and the Rockefeller Foundation coöperated. Between July 1, 1927, and June 30, 1929, the former expended $200,000, the latter $20,000 in this work. The Legislature of 1929 appropriated $120,000 to be used by the State Board in coöperation with these agencies for the next biennium, but the appropriation was vetoed by the Governor.[18]

Industry, especially farming, received a great setback from the flood. While the flood was at its height the Arkansas Farm Credit Company was organized at Little Rock for the purpose of making loans to farmers. The officers were: W. H. Hicks, president; Jo Nichols, Roy L. Thompson, and M. W. Hardy, vice-presidents; W. P. Agee, Jr., assistant secretary and office manager. The directors were: Harvey C. Couch, A. B. Banks, W. C. Hudson, Joe T. Robinson, C. L. Thompson, R. E. Lee Wilson, and Moorhead Wright in addition to the officers named above. The total capital stock paid in amounted to $625,552.50. At the time of organization it was estimated that the loss would be fifty per cent., but when the company dissolved in 1929 it was found that the total loss was only $22,794.38,[19] a splendid testimonial to the honor, integrity and determination of the Arkansas farmer.

In 1927 the country realized as never before that flood control was a matter of national concern. Congress was nearly unanimous on this, but there was great diversity of opinion as to the best method of going about it. After much discussion the "Jadwin Plan" was finally adopted. This calls for the expenditure through the War Department of $325,000,000 scattered over a ten-year period. There was a good deal of opposition to the plan itself, some holding that it was not based on the best method of control, but there was little opposition to the project of flood control by the national government. In June, 1930, Major-General Lytle Brown, chief of the Army Engineers, suggested some changes in the plan. At the same time an allotment of $24,200,000 was made out of $35,000,000 appropriated for the coming year.[20]

March 2, 1928, President Coolidge nominated Governor Martineau to be Judge of the United States Court in the Eastern District of Arkansas, and on March 14 Harvey Parnell succeeded him as Governor.[21] Mr. Parnell was born in Cleveland County, February 28, 1880, and attended the Warren High School, but did not graduate. He engaged in farming and business. He served in the Legislature as Representative from Chicot County, 1919-21, and Senator from the Fifteenth District, 1923-1925. He was elected Lieutenant-Governor in 1926 and became Governor in the manner just indicated. He married Miss Mabel Winston, of Dermott, June 2, 1903. His residence is at Dermott.

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18. Acts of 1929, II, 1296-99.
19. *Arkansas Gazette,* November 13, 1929.
20. *Arkansas Gazette,* June 6, 1930.
21. *Arkansas Gazette,* March 15, 1928.

The change in offices was caused by the death of Jacob Trieber (September 17, 1927), who had long been on the Federal bench. Another eminent citizen died in 1927 (October 14), H. L. Remmel, who had for many years been a leader among the Arkansas Republicans and prominent in business circles.

Soon after the accession of Governor Parnell the political pot began to boil. Governor Terral decided to try to come back; the Hon. Carroll Cone, Auditor, who had served as watch dog of the treasury and had blocked some questionable payments, announced his candidacy; and Brooks Hays, a young man only a few years removed from graduation at the University, who had served an apprenticeship as Assistant Attorney-General, threw his hat into the ring. The chief issues centered around personalities, but Governor Parnell weathered the storm and came out ahead with 87,635 votes to 51,615 for Hays, 29,590 for Terral, and 28,001 for Cone.[22] After the results had been announced attempts were made to bar Parnell's name from the ticket on the ground that he had violated the Corrupt Practice Act in that, as alleged, he had spent about $80,000, exclusive of hotel and traveling expenses, while the law allowed only $5,000.[23] The Governor himself explained this as due to opposition of the toll bridge interest, but nothing came of it.

The platform reaffirmed allegiance to the Democratic party, endorsed Smith and Robinson as candidates for President and Vice-President, commended clean campaigning, fewer laws, economy, honorary boards, expansion of State institutions, laws to advance education, agriculture and industry, endorsed two of the pending amendments (increasing salaries and providing for municipal aid to establish industries), declared the friendship of the party for labor, and called for the completion of the highway program, and a new hospital for nervous diseases on a tract of 4,000 acres. An attempt was made to get incorporated a plank endorsing free text-books and another for a run-off primary, but this failed. The proponent of the latter was not allowed to present it on the floor of the convention, the excuse being that he ought to have arranged for a minority report in its favor. State, central and county committees were authorized to debar for two years "disloyal" Democrats, that is, those who refused to support Smith and Robinson.[24] The Republicans did not put out a full State ticket, but renominated M. D. Bowers for Governor.

For the first time since 1860 the National Democratic Convention met in the Lower South, at Houston, Texas. It abandoned its traditional attitude on the tariff, adopted a moderately "dry" platform and nominated a "wet" candidate for President, Governor Alfred E. Smith, of New York, and a "dry" for Vice-President, Senator Joseph T. Robinson, of Arkansas. The Republicans nominated Herbert Hoover, the choice of

22. *Arkansas Gazette,* August 17, 1928.
23. *Arkansas Gazette,* September 13, 1928.
24. *Arkansas Gazette,* September 14-15, 1928.

President Coolidge, for President, and Senator Charles Curtis, of Kansas, for Vice-President, and adopted a "dry" platform. Both parties promised farm relief, but both fought shy of the McNary-Haugen bill.

In the general election Parnell defeated Bowers 151,771 to 44,565. The rest of the State ticket had no opposition. Lee Cazort, Lieutenant-Governor; Jim B. Higgins, Secretary of State; Ralph Koonce, Treasurer; J. Oscar Humphrey, Auditor; Hal L. Norwood, Attorney-General; J. P. Womack, Superintendent of Public Instruction; Dwight H. Blackwood, Commissioner of Lands, Highways and Improvements; and Earl Page, Commissioner of Mines, Manufactures and Agriculture. Two changes were made in the Arkansas delegation in Congress, Claude A. Fuller succeeding John N. Tillman and D. D. Glover succeeding James B. Reed. William A. Oldfield was reëlected for another term, but died (November 19, 1928) before his term was out. January 9, 1929, his wife, Pearl Peden Oldfield, was elected to fill out his unexpired term and for the full term of 1929-31. J. N. Tillman retired, after fourteen years of service, in broken health and died (March 9), a few days after his term expired.

The Democratic electors were successful, but the Smith-Robinson vote was 32,575 below the vote for Parnell and the Hoover-Curtis vote was 23,186 above the vote for Bowers. For the first time since the overthrow of the Carpet-bag governments the Republican party carried states in the Lower South, Texas and Florida; also North Carolina, Virginia, and Tennessee. In the Nation as a whole it was a crushing defeat for the Democrats. The Hoover vote being 21,429,109 to 15,000,497 for Smith.

When the new Legislature met, Dr. W. H. Abington was elected the Speaker of the House. In his inaugural (January 16, 1929), Governor Parnell praised the Martineau road law and said it had effected a reduction of taxes approximately forty per cent. on farm lands and twenty-one per cent. in cities. (This affected only the lands within a road district.) He claimed that Arkansas had more mileage of good roads than any other State, considering the number of cars, population and area, yet there was a demand from every section for the State to take over more roads. This was due to the fact that the county system had fallen short of meeting county needs. This meant that there was an imperative need of a system of State secondary roads. As a measure of farm relief to the flooded area he recommended that the levee debts be refunded by a fifty-year loan from the United States Government (although it did not appear that such a loan had been offered), the State to collect a small levee tax to repay the loan without interest. On Confederate pensions he recommended that the residence requirement be raised from one to three years, that the division commander of the Sons of Confederate Veterans and the State President of the United Daughters of the Confederacy be made *ex-officio* members of the State Pension Board, and

that the county judge and one member of the aforesaid organizations be added to the county board. He recommended that the hiring out of county convicts be abolished and promised a bill for a new State Hospital. He advised the State property tax be lifted as soon as other revenues could be found to make it practicable and spoke of a study of the California method to see how it could be applied in Arkansas.

Among the general acts passed were the following: Coal was exempted from the severance tax. Provision was made for the appointment of judges and clerks in primary elections with the view to insure fairness and the right was given for an appeal to the circuit judge for a writ of mandamus to compel obedience to the law. Cities of the first-class were authorized to own and operate airports. A Bureau of Commerce and Industry was created in the Bureau of Mines. The commission-manager form of government was authorized in cities of 8,100 to 9,000 inhabitants, according to the census of 1920,[25] an absurb restriction. A policeman's pension and relief fund, with one-sixth of a mill tax to support it, was provided for in cities of not less than 50,000 population. The Confederate Pension Board was reorganized along the lines recommended by Governor Parnell and the roll was ordered to be purged. Fraternities in high schools were forbidden and fortune telling and palmistry was declared a privilege and subjected to a tax. The Railroad Commission was given power to regulate the manufacture and sale of ice.[26]

The Highway Commission was separated from the State Land Office and reorganized to consist of five members, all appointed by the Governor to serve ten years, but so arranged that only one retires every two years. The chairman is elected by the commission and he alone serves full time and receives a salary,[9a] but the commission is still the football of politics.

A good deal of incompetence and some rascality had recently come to light in connection with the office of county treasurer. To meet this situation the comptroller was authorized to prescribe a system of bookkeeping and accounting for all county and township officers and be required to audit accounts once a year. The *pièce de résistance* of this Legislature was its taxation bill, or rather, bills.

For some time it was known that conditions at the State Hospital for Nervous Diseases were deplorable, due to overcrowding and insufficient, inefficient and underpaid attendants. Since the last Legislature had met (1927) this had been brought to the public notice in a tragic way, the death of a patient which was ascribed to brutal treatment by an attendant. Governor Parnell promised that the situation should be remedied, but this would call for money. Another project calling for money was the equalization fund, the machinery of which had been provided by the last Legislature.

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25. Acts of 1929, II, 1242.
26. See p. 343 for application of the law.
9a. Acts of 1929, I, 268-69.

While the Legislature of 1927 had not provided the means to carry out its program it had authorized the appointment of a "Commission on Business Laws and Taxation." There was an idea common among a few that the industrial development of the State was being hampered by laws unfavorable to business. This commission was to find out what those laws were and report on the system of taxation.[27] Before the Legislature of 1929 met a majority of the members went on a jaunt to Virginia and North Carolina to study the system of taxation in operation in those states.

It is somewhat difficult to trace the effect of this trip and of the study of the report of the commission on the outcome, especially on the first bill. This bill levied an income tax on net incomes, such as Governor McRae had advocated for years. Coupled with this was an occupation tax covering everything from commission merchants to hobby-horse machines. Because of its sweeping nature it was called the "omnibus bill." It was passed, signed by the Governor (February 27) and filed with the Secretary of State.

Few bills passed by the Arkansas Legislature, however, raised such a storm of protest. In comparison the opposition to the Turner-Jacobson Bill of 1911 was rather mild. The omnibus bill was denounced in the press, on the platform and in public meetings in unmeasured terms. This opposition was not without effect and a new measure, bearing the name of its author, Hon. A. J. Hall, representative from Logan County, and confined to the income tax alone, was passed. This was a graduated tax, ranging from one per cent. on first $3,000 of net income to five per cent. on all above $25,000. Exemptions were $1,500 for a single person and $2,500 for the head of a family, with $400 additional for each dependent under eighteen. Because of a tenderness for business a flat rate of two per cent. was levied on the entire net income of corporations.

The revenue from the Hall Bill was allocated to the retirement of bonds to be issued for a new Hospital for Nervous Diseases, to the equalization fund, and to the reduction of State taxes. Section 1 to 51 of the omnibus bill, levying taxes on occupations, were repealed the same day (March 9), although the income tax features of this bill were not expressly repealed.[28]

Much of the opposition soon subsided, but some of the larger interests which would be affected by the income tax combined to protest and a Taxpayers' Association was organized and a secretary employed to continue the opposition, especially to any increase of taxes. It was the same story that had been heard back in the 'eighties, that taxation would discourage industry and retard development of the State. It is

27. See *Arkansas Business Laws and Taxation,* a book of 267 pages, revealing careful study of the subject. The commission consisted of George Vaughan, chairman; O. L. Bodenhamer, El Dorado; H. C. Couch, Pine Bluff; J. H. Meek, Camden; Roy Milum, Harrison; J. S. Waterman, Fayetteville; R. E. L. Wilson, Wilson.

28. Acts of 1929, I, 573-620.

noteworthy, however, that 1929-30 was marked by the starting of several new industries and the enlargement of others.

Finding that the Highway Commission was being very much hampered in its work by suits at law by people whose business was being interfered with, Governor Parnell called a special session of the Legislature. That body sat September 25-28, 1928, appropriated $20,000 to pay its expenses and passed a law requiring the plaintiff in suits against the commission to file bond to pay all damages sustained by the commission in consequence of the delay in its work; also, it appropriated $650,000 out of the $5,000,000 "note" sale of the county highway fund for use on county roads. The Highway Commission was authorized to convert bridges built by improvement districts into State toll bridges and $7,500,000 in bonds was voted to facilitate the building of toll bridges on State highways, none to cost less than $150,000. The bonds were to be retired out of the tolls and the bridges were to be free when paid for. The Harahan viaduct was taken over and made a part of the State Highway and the granting of franchises for any more private toll bridges was prohibited. An additional bond issue of $18,000,000 for highway construction was authorized and $5,000,000 was appropriated for the period March 1 1928, to February 28, 1929.[29]

The summer of 1930 was one of almost unprecedented heat and drouth. In some places as far north as Iowa the mercury ranged above 110°, in a few going to 115°. In many places there was practically no rain for ninety to one hundred days. The heat and drouth covered almost all of the Mississippi Valley. In the first half of August there was a general rain, but this was followed by another drouth, which was broken September 8-10. The deaths in the cities from heat were numerous. The farmers suffered immense losses from the burning up of their crops. Arkansas was hardest hit, both in food crops and in cotton.[30] The situation became so serious that President Hoover called a conference of the governors of the states affected to consult about measures of relief. State and county organizations were then effected and soon got into action. One suggestion was that road building should be speeded up and that the Federal funds should be advanced ahead of time in order to furnish work for the farmers. In Lonoke County the farmers demanded work of a construction company, complained of the importation of laborers, and later the camp was fired upon. A detachment of the National Guard, which happened to be encamped at Little Rock, was sent over and restored order. The reason given by the construction company was the need of skilled laborers. A few days later the company decided to employ some farmers, but only a few applied.

It will be recalled that Governor Parnell served nearly a year of the

29. Acts of Special Session, 1929, pp. 3-4.
30. *Arkansas Gazette,* September 10, 1930.

term for which Governor Martineau had been elected. In 1928 he asked for reëlection and in 1930 announced his candidacy for another term. Three candidates came out against him, Brooks Hays, John C. Sheffield, and Thornberry A. Gray. The chief issue between Parnell and Hays was the management of the Highway Department. Hays promised to carry out the Martineau program for building, but said that the commission should be reorganized. In particular he charged that one of the members, Justin Matthews, had made large sums of money by unloading on the State bonds for roads and streets in Park Hill Addition; also, he demanded an audit of the accounts of the Highway Department. Governor Parnell defended the commission and said that millions would be lost by such disruption of its work as that threatened by Mr. Hays; as for the audit, that could not be made because the Legislature had not provided the necessary funds, but he favored one.

The Democratic primary was held on August 12 and the vote stood: Parnell, 135,245; Hays, 92,786; Sheffield, 20,076; Gray, 3,405. The other successful candidates were: Lawrence E. Wilson, Lieutenant-Governor; Ed. F. McConnell, Secretary of State; J. Oscar Humphrey, Auditor; Roy V. Leonard, Treasurer; Belva Martin, Commissioner of State Lands; C. M. Hirst, Superintendent of Public Instruction; E. L. McHaney and Turner Butler, Associate Justices of the Supreme Court. The latter had been appointed to succeed Justice Carroll D. Wood when he resigned, May 20, 1929, after thirty-six years on the bench. Mrs. Martin is the first woman to be elected to State office in Arkansas, though several have sat in the Legislature. She had been appointed to this office when her brother, Dwight H. Blackwood, resigned to become chairman of the Highway Commission.

In the Congressional race, Tom. W. Campbell, of Little Rock, sought to displace Senator Robinson by charging that he was allied with the Power Trust and by promising the farmer twenty cents for his cotton. Senator Robinson paid very little attention to the campaign until a short time before the election and was reëlected by an overwhelming vote, 190,133 to 56,511, a majority of 134,122. The delegation to the House of Representatives remained unchanged except that John E. Miller succeeded Mrs. Pearl Peden Oldfield, who did not stand for reëlection.[31]

The Republicans nominated J. O. Livesay for Governor, but it is taken for granted that the entire Democratic ticket will be elected in November.

While this book was in press the census announced the population of the United States as 122,698,190 in 1930, that of Arkansas as 1,853,981. The increase for the Nation was 16,987,570, or 16.1 per cent.; for Arkansas, 101,777, or 5.8 per cent.

31. *Arkansas Gazette*, August 22, 1930, p. 20.



Route No. 2, East of Montrose in Ashley County.



Concrete Bridge washed away on Hot Springs-Little Rock Road, in Saline County.



Route 165, North of Montrose, Ashley County.

PART III

SOME PROBLEMS OF GOVERNMENT

CHAPTER XXIX.

POPULAR GOVERNMENT.

By David Y. Thomas.

I—Amending the Constitution.

The first constitution (1836) provided (Art. 5, Sec. 34) that the Legislature, by a two-thirds majority, might propose amendment and that, if published "three several times, at least twelve months before the next general election," and if at the first session of the next Legislature that body ratified by a two-thirds majority, then the amendment should become a part of the constitution. In 1846 the Legislature provided in one resolution for three distinct amendments. One prohibited the incorporation or establishment of any bank. This was due to the unfortunate experience of the State with the State Bank and the Real Estate Bank. The second conferred upon the Legislature certain powers to regulate the courts (interchange of circuits, and jurisdiction of justices of the peace), and the third fixed the terms of certain officers. No doubt it was the popularity of the first part relating to banks which caused the resolution to be adopted unanimously in both houses.[1] The Legislature of 1860-61 passed a resolution for an amendment authorizing itself to create a county, with not less than 6,000 square miles and a population sufficient to entitle it to a Representative, out of St. Francis and Jackson counties,[1a] but evidently it was lost in the confusion of the Civil War.

The secession convention made a few changes in the constitution to adjust it to the new Confederacy; also, it played a trick upon Governor Henry M. Rector in shortening his term and suspending the constitution where it conflicted with the convention's purpose to take over authority belonging to the Governor, but the provision about amendment remained unchanged until 1868. The first participation of the people in amending came in the constitution of that year which provided for amendment by two successive Legislatures with a single majority vote, followed by ratification by popular vote at the election following the second Legislature. The amendment must be published three months before the second Legislature was elected. If more than one amendment was submitted, the electors must be allowed to vote on them separately.[2] The Legislature of 1871 proposed an amendment removing the political disabilities imposed on ex-Confederates. It was approved by the Legislature of 1873[2a] and ratified by the people March 3, 1873. In 1873 an amendment was pro-

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1. Acts of 1844, p. 161. Acts of 1846, p. 198.
1a. Acts of 1860-61, p. 453.
2. Constitution, Art. XIII.
2a. Acts of 1873, p. 485.

posed allowing homesteads to be mortgaged,[2b] but the constitution of 1874 was adopted before a second Legislature had a chance to pass on it.[2b]

The constitution of 1874, Section 22, provided that the Legislature might propose amendments and that, if published in a newspaper in each county for six months preceding the election and ratified by "a majority of the electors voting at such election," it should become a part of the constitution.

The first use of this was in 1880, when the so-called Fishback Amendment, repudiating certain bonds, was submitted. It failed of adoption, was resubmitted in 1884, and was ratified by a large majority. The second proposal was the requirement of the payment of a poll tax as a qualification for voting, submitted in 1892. It received 75,940 votes to 56,601 and was declared adopted and listed as Amendment No. 2, although it did not receive a majority of the total vote, which was 156,192. One reason for this amendment was to shut out the negro vote. The Republicans and Populists denounced the amendment when pending and afterwards declared that it had not been adopted.

In 1894 two amendments were submitted, one authorizing the quorum court to levy a tax of three mills for local improvements and another authorizing the Governor to fill vacancies in State, district, county, or township offices until the next general election. The careless wording is evident from the fact that no provision was made for the time between the election and the time when the newly elected officers were to take charge. The first was defeated by a large majority, 32,774 to 51,420; the second received 43,428 to 40,207 and was declared adopted by the Speaker, although this was considerably less than a majority of the total vote, 126,986. This was published in the Acts of 1895 as Amendment No. 3.

In 1904 a man was elected clerk of the Circuit Court in Lincoln County and died before being inducted into office. The Governor then appointed R. R. Rice to fill the vacancy, but Henry D. Palmer, who had been elected in 1902, refused to vacate on the ground that Amendment No. 3 had never been adopted and the Governor had no right to appoint. A majority of the Supreme Court upheld his contention, saying that the majority necessary to adopt was "a majority of the electors at the general election for Senators and Representatives, and not a mere majority voting on the subject of the amendment.[3] Justices Riddick and McCulloch dissented, holding that a majority voting on the question was sufficient. This amendment and the one requiring a poll tax for voting were then dropped.

The Rice *v.* Palmer case settled that an amendment must receive a majority of the total vote, but it did not say how the total vote was to

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2b. *Ibid.*, p. 483.
2. Constitution, Art. XIII.
3. Rice *v.* Palmer, 78 Ark., 437-68.

be determined. This was decided a few months later. The question before the court now was the constitutionality of the Acts of 1883, directing the Speaker instead of the Secretary of State, to declare the result. The court held that the constitution, in saying that the amendment was to be declared adopted, "if a majority of the electors voting at" the election of Senators and Representatives, "did not mean to be taken literally," but was descriptive, and meant "the general election at which Senators and Representatives were elected." The conclusion reached was that the Act of 1883 was a "fair and substantial fulfillment of the constitution.[4]

Before all this happened six other amendments had been submitted. The Legislature of 1897 asked for authority to regulate transportation rates and to create a commission to carry out its laws; also, it asked for authority for the quorum court to levy a three mill tax to be used exclusively for roads and bridges. When proposed in 1893 this proposed tax had not been confined to these two public improvements. Both propositions carried by a majority of the total vote and were published as Amendments No. 4 and No. 5, respectively. In 1900 a proposal for sureties on bonds by bonding companies received a vote of 65,825 to 23,033. The Speaker declared that it had received "a majority of all the votes cast" and was, therefore, adopted, but this was not true, as the vote for Governor was 132,979.[5] Still it was proclaimed as adopted and was published as Amendment No. 6.

The Legislators of 1901 proposed to give to themselves the right to fix their own salaries by law, and this received a vote of 45,598 to 43,982. The Speaker merely announced the result and said nothing about whether the amendment had been adopted or not.[6] It had not received a majority of the vote for Governor, 119,741. In spite of this it was proclaimed by Governor Jeff Davis as adopted and was included in the Report of the Secretary of State for 1907-08 and in Kirby's Digest of 1904 as Amendment No. 7. It is still published in the report of the Secretary of State (1926-28) and in Crawford and Moses as No. 4, but is not included in Applegate.[7]

In 1904 the proposition to increase the number of Supreme Court justices was voted down, 43,850 to 44,987; also the proposition to allow cities of the first and second class to issue bonds for specific purposes on approval of a majority of the electors voting thereon. This was vetoed by the Governor, passed over his veto, but it received 45,198 to 44,378. This, however, was not a majority of the vote for Governor, 149,780, and Speaker William W. Cate declared it not adopted,[8] thus anticipating the Supreme Court in Rice *v.* Palmer.

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4. St. Louis S. W. Rwy. Co. *v.* Kavanaugh, 78 Ark., 468-79.
5. *House Journal*, 1901, p. 25.
6. *House Journal*, 1903, p. 29.
7. *Constitution of Arkansas Annotated.*
8. *House Journal*, 1905, p. 25.

The seven mill school tax amendment submitted in 1906 received a large majority of the vote for Governor, 92,969 to 47,368 out of 146,370. In 1908 the poll tax amendment carried, 88,386 to 46,835, out of a total of 167,789. Both of these went on record, the first as Amendment No. 8, the second as No. 9, although the Supreme Court had expressly voided one, No. 3, and by implication three others, Nos. 2, 6, and 7.

Apparently the first move for modern "popular" government in Arkansas came in 1896, when the Populist party adopted a plank endorsing the initiative and referendum. Two years later the Democratic convention refused to endorse it. In 1905 Mr. William A. Anderson, of Benton County, introduced in the House a resolution calling for an amendment to the constitution providing for the initiative, referendum, and the recall of judicial decisions.[9] The resolution received scant consideration. In 1907 Senator E. R. Arnold, of Clark County, introduced a resolution for the initative and referendum, leaving out the recall. Near the close of the session it was defeated, eight to fifteen, twelve not voting.

The cause of this movement was very well stated in a decision of the Supreme Court in a case which grew out of the amendment after its adoption. "What was the evil the initiative and referendum amendment was designed to remedy?" asked the special Chief Justice, J. H. Harrod, in delivering the opinion of the court. "It is well known that it was the failure of the legislative department of the State government to respond to the wishes of the people. . . . . Sometimes it was the failure or refusal to enact laws the people wanted; sometimes it was in passing laws the people did not want passed."[9a] In fact, there was a growing dissatisfaction with both the quantity and quality of the legislative output; also, with the length and expense of the session. For example, the bills and resolutions passed in 1901 covered 413 pages; in 1905, 843 pages; in 1907, 1,273 pages. The increase had come largely in local and special acts. There was a general feeling that the lawmakers stayed in Little Rock too long and spent too much money. The sessions lasted about 116 days and cost $115,000 to $125,000. Powerful interests, the railroads in particular, were engaged in lobbying and the belief was general that the Legislature represented the "interests" rather than the people. This belief was strengthened when several senators were indicted for bribery.

In his campaign for the Democratic nomination for Governor in 1907-08, Mr. George W. Donaghey denounced legislative corruption and championed the initiative and referendum. He was successful and, 1909, Senator Arnold got his resolution of 1907 passed in the Senate. In the House an amendment was added for local legislation in the hope of remedying that evil in the Legislature. Unfortunately, the amendment was clumsily worded and came near wrecking the whole provision after

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9. *House Journal*, 1905, p. 476.
9a. Ferrell *v.* Keel, 105 Ark., 380.



OLD STATE HOUSE, LITTLE ROCK

it had been adopted by the people. As finally submitted, the provision read, the House addition being printed in italics.

> The legislative powers of this State shall be vested in a General Assembly, but the people of *each municipality, each county* and of the State, reserve to themselves the power to propose laws and amendments to the constitution and to enact or reject the same at the polls as independent of the legislative assembly, and also reserve the power at their own option to approve or reject at the polls any act of the Legislative Assembly.

The proposed amendment further provided that "eight per cent. of the legal voters" might propose a measure and that five per cent. might refer a legislative enactment. Bills passed by the Legislature were suspended ninety days, so as to allow the voters a chance to refer them, unless they carried the emergency clause, which stated that the "public peace, health, and safety" made it necessary to put them into operation at once. "Any measure referred to the people shall take effect and become a law when it is approved by a majority of the votes cast thereon and not otherwise." Petitions were to be filed with the Secretary of State and it was his duty to submit to the people those which had complied with the law. The amendment was adopted by a vote of 91,367 to 39,111.[10]

The first use made of the new device was the referendum on the Turner-Jacobson bill. This had been passed in 1911 in an effort to raise more revenue to meet the increasing deficit. A law increasing taxes is not ordinarily a popular measure and the opponents of this one, having failed in the Legislature, undertook to defeat it by a vote of the people. They secured the requisite number of signatures within the ninety days prescribed, but the Arkansas Tax Commission insisted that the law was already in force and asked the court for a writ of mandamus against the assessor of Pulaski County to make him obey it. The bill had been passed without the "emergency clause." The court refused the mandamus and the Supreme Court sustained the decision.[11]

People who had not been able to get from the Legislature what they wanted now began to bestir themselves. Several local petitions were prepared, one to move a courthouse, another to legalize Sunday baseball in Little Rock, another to legalize betting on horse races in Hot Springs, although this was forbidden by a general law. The petitions bore signatures amounting to eight per cent. of the voters of the county or city concerned, but the Secretary of State refused to submit them to the voters on the ground that the amendment did not call for the submission of any measure not supported by signatures amounting to eight per cent. of the votes cast for Governor in the entire State at the preceding election. Besides, some of the proposed measures, such as legalizing betting on horse races, would repeal for a locality a general law, which was forbid-

10. Report of the Secretary of State, 1909-12, p. 68.
11. State *ex rel.* Arkansas Tax Commission *v.* Moore, 103 Ark., 48.

den by the Enabling Act, under which the petitioners were acting. On appeal the Supreme Court upheld the Secretary of State and said that "each municipality" and "each county" had been "inaptly thrust into the amendment as originally framed in a way that it expresses nothing and means nothing."[12] By this decision the court made waste paper of the local features of the I. and R.

From that day to this, from time to time, the courts have been busy handling cases which arose out of the application of the amendment, then called Number 10, and its successor soon to be described. Among the first cases was one which required a special Supreme Court to pass upon whether a bill which was preceded by "Be it enacted by the people of Arkansas" instead of "Be it enacted by the General Assembly" was really a law. The Supreme Court was actually called upon to decide whether all the petitions for any particular measure had to be filed on the same day.[13]

While in session the Legislature had submitted two amendments, one a crudely drawn suffrage provision, including the so-called grandfather clause, and another resubmitting the amendment to exempt cotton mills from taxation for seven years, which had been defeated in 1908. Three were submitted by petition, one limiting legislative sessions to sixty days with pay at $6 per day and special sessions to fifteen days with pay at $3, another for the recall of elective officers, and another allowing cities to issue bonds, which had been voted down in 1908.

The Turner-Jacobson law and the suffrage amendment suffered defeat. The other four amendments received majorities. The court had already held that a legislative proposal, to be adopted, must receive a majority of the vote cast at the election. The vote for Governor at this election had been 169,610 and only the amendment limiting legislative sessions had received a majority of this vote. Some held that the rule of the constitution of 1874 had been altered by the I. and R. Amendment. and asked for a writ of mandamus to compel the election commissions to declare the amendments adopted. When this case came before the Supreme Court that body held that the regulation of the constitution of 1874 was still in effect; also the rule that only three amendments could be submitted at one time, therefore the amendment authorizing cities to issue bonds had been improperly submitted. Besides, it had not received a majority of the total vote and had not been adopted. Justices Wood and Smith dissented, holding that, in the language of No. 10, "Any measure referred to the people shall take effect and become a law when it is approved by a majority of the votes cast thereon."[14]

Although the amendment limiting the legislative sessions had received a clear majority of the total vote, a member of the Legislature asked for

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12. Hodges *v.* Dawdy, 104 Ark., 583.
13. Hammet *v.* Hodges, 104 Ark., 510.
14. State *ex rel.* City of L. R. *v.* Donaghey, 106 Ark., 56.

an injunction to restrain the Speaker from declaring it adopted. Two reasons were given for this : First, it had not been advertised six months, as the constitution of 1874 required, but only three months, as the enabling act required; second, five amendments had been sumbitted instead of three and this vitiated all. All three arguments the Supreme Court overruled and held that the amendment had been properly adopted.[15]

This amendment seemed worth while on the score of expense, a change that never could have been secured through the Legislature. The long session, 140 days, of 1911, cost about $200,000. The sixty-day session of 1913 cost about $76,000, a saving of $124,000 to an empty treasury. It reduced the number of bills from 502, covering 1,908 pages, to 368 bills, covering 1,560 pages, but it is not at all certain that the quality was improved. The economy effected in legislative sessions was almost dissipated in the extravagance of submitting the acts and amendments to the people. The enabling act required that they be published in the newspapers. This was done at a cost of $76,807. If published in pamphlet form they could have been placed in the hands of every voter at a cost probably not exceeding one-sixth of that sum. In 1913 a bill was introduced to provide for this kind of publication, as was done in Oregon, but the newspapers had several representatives in the Legislature and bestirred themselves to defeat it.[16]

The decision of the court that only three amendments could be submitted brought on a sort of rivalry between the legislators and the advocates of the I. and R. and resulted in a race to see which could get there first with three. The petitioners had the advantage, for they could start immediately after the election, while the Legislature did not meet until January. As soon as the defeat of the bond proposition was know its friends bestirred themselves and secured enough signatures for resubmission by the time the Legislature met. The Legislature itself submitted two, one for putting legislators on a salary of $750, and one for Lieutant-Governor. None of these measures carried, although the first and third received a majority of the vote cast on them.

Very early the Legislature developed the habit of attaching the emergency clause and thus putting its acts into effect at once, thereby precluding the possibility of a referendum. It even attached it to a measure which was not to come into operation for nearly a year. While the measures mentioned above were pending, the Supreme Court decided that the Legislature was the judge of the need of the emergency clause, that it might attach it and defer the operation of the act for a year or more.[17]

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15. Grant *v.* Hardage, 106 Ark., 506.
16. *Arkansas Gazette,* February 19, 1913, p. 3.
17. Hanson *v.* Hodges, 109 Ark., 479. Ark. Tax Com. *v.* Moore, 109 Ark., 48.

The abuse of the emergency was partly responsible for the new I. and R., submitted in 1916 and finally adopted in 1920. This provided that the fact of the emergency must be stated in a separate section and, to be adopted, must be approved by a two-thirds majority of all the members on a separate roll call.

In 1916 two amendments were submitted by petition, the first being filed with the Secretary of State a few days after the Legislature met. This was a new I. and R. and was designed to cure the defects in the one of 1910 as pointed out by the Supreme Court and to extend it. It authorized eight per cent. of the legal voters (based on the vote cast for Governor) to propose any law, ten per cent. to propose an amendment, and six per cent. to refer any act of the Legislature. The new emergency clause has already been explained. Counties and municipalities were now allowed to use the new machinery, fifteen per cent. of the voters either to refer an act or initiate one. Any measure referred was to be declared adopted when approved by a majority of the voters voting on it.

The educators of the State felt that the Legislature was a little slow in providing adequate funds for schools and initiated the amendment allowing the voters of each school district to vote a tax of twelve mills for educational purposes. The solons did have some interest in good roads and voted to submit a proposition for a three mill road tax. They also adopted an equal suffrage amendment, but the Secretary of State refused to submit it because of the rule of three.

The school tax carried by a good majority. The road tax received a majority of the votes cast on the question, 82,753 to 67,575, but not a majority of the total vote, 175,734. The new I. and R. was defeated 69,817 to 73,782.[18]

For some time a demand had been heard occasionally for a constitutional convention. The demand was not particularly strong, but the Legislature of 1917 called such a convention. It met in 1917 and adjourned to meet again next year. It drew up a revision of the constitution of 1874 and put into it the substance of the I. and R. submitted two years before. The vote on this constitution at a special election (December 14, 1918), was very light and it was defeated 23,820 to 37,184.[19]

The friends of municipal improvement bonds again brought this in by petition. Before adjourning, the Legislature (1917), in addition to calling the constitutional convention, adopted three proposals for amendment, one authorizing farm loans by the State, one increasing the Supreme Court, and a third for a pardon board. The last was a response to a very free criticism of the executive for a too free use of the pardoning power running over several years. But this was the last of the legis-

18. Applegate, 249.
19. Report of the Secretary of State, 1920, p. 104.

lative propositions and the Secretary of State refused to submit it, as three others were ahead of it. The vote at the general election was unusually light because of the war. The bond proposition received a majority of the vote cast on it, 25,059 to 24,191, but not a majority of the vote for Governor, 72,984. Both of the others failed to receive even a majority of the vote cast on them.

Immediately after the defeat of the new Constitution the friends of the I. and R. bestirred themselves and soon had it ready for resubmission when the Legislature met in 1919. The Legislature also submitted two, one providing for equal suffrage on payment of a poll tax and another increasing the Supreme Court to seven and raising the salaries. Each received a majority of the votes cast on it, but not a majority of the total vote. The petitioners for the I. and R. were very much encouraged by the vote cast on it, 86,360 to 43,662, and put it on the ballot for 1922, but the result this time was a bitter disappointment, 38,690 to 61,112. The educators felt that it was time to go beyond the twelve mill tax and submitted by petition an amendment allowing school districts to vote taxes for schools without any limitation. The storm of protest raised against this was so great that the proponents abandoned it to its fate and it was defeated 14,384 to 88,703. By this time the good roads advocates were beginning to feel that it was unfair that realty alone should bear the burden of building roads and persuaded the Legislature to submit an amendment subjecting personalty to taxation for this purpose, but the sentiment was decidedly adverse, 28,813 to 71,811.

The financial condition of cities under prohibitions of the constitution of 1874—not to issue bonds or exceed five mills in taxes—was getting desperate and the Legislature of 1923 submitted once more the amendment allowing cities and counties to issue bonds to take up present indebtedness and to levy three mill tax to pay off the bonds. Also, it resubmitted the Supreme Court amendment and another prohibiting the Legislature to pass local or special acts. All of these received a majority of the vote cast on them, but not a majority of the total vote. Following precedents the Speaker of the House declared them not adopted.

The advocate of the bond issue felt that something must be done and Mr. Ben D. Brickhouse, mayor of Little Rock, prepared to issue bonds as though the amendment had been adopted. Upon application the Chancery Court of Pulaski County (J. E. Martineau, judge) issued an injunction forbidding such action. On appeal it came before the Supreme Court, whereupon the judges declared themselves disqualified because an amendment affecting them was in the same category. The Governor then appointed five special justices, ex-Governor T. C. McRae being special Chief Justice. Half a dozen or more attorneys, including George B. Rose and J. F. Loughborough, appeared and filed briefs *amici curiæ*. After hearing the arguments the court reversed the decision in Hildreth

v. Taylor (117 Ark., 465) and declared that the I. and R. adopted in 1910 had changed the requirement so that a majority of the vote cast on a measure, and not of the total vote, was enough to adopt it.[20]

This decision was but little short of revolutionary; also, it left open the flood-gates to litigation growing out of the amendment. Twenty-four cases growing out of the original amendment (No. 10 [7]) had already been decided by the Supreme Court. Case after case now followed the Brickhouse case and twelve had been adjudicated by the close of 1929. Four grew out of the emergency, five out of the clause "shall be self-executing," and seven out of whether or not the amendment delegated legislative power to the Secretary of State.[21]

As the I. and R. had been submitted by petition in 1920 and had received a majority of the vote cast on it, the Brickhouse decision brought this back into life. It is interesting to note that this same amendment had been resubmitted by petition in 1922 and had then been turned down by a decisive majority.

The Brickhouse case arose over an amendment submitted by the initiative. As the court always confines itself to the case in hand, this left unsettled whether the same rule should apply to amendments submitted by the Legislature. In 1926 T. A. Gray wanted to run for Lieutenant-Governor, but the Secretary of the Democratic Central Committee refused to put his name on the list of candidates on the ground that there was no such office. Mr. Gray then asked the court for a writ of mandamus against the Secretary, Harvey C. Combs, on the ground that the office had been provided for in an amendment submitted by the Legislature in 1914 and that it had been adopted by a majority of those voting thereon. On appeal the majority of the Supreme Court decided that the new rule announced in Brickhouse *v.* Hill applied to all amendments, regardless of the method by which submitted, but Chief Justice McCulloch and Justice Smith dissented.[22]

Under the ruling of the Brickhouse case the legislative proposal against local and special acts would have been validated, but it was soon ruled out on the ground that it had been improperly submitted, the proposed amendment not having been entered properly in the Journals.[23]

As the proposal to increase the Supreme Court to seven members had been submitted by the Legislature, the Combs case had the effect of putting that amendment into operation and it was renumbered 9 (10 in Acts of 1925, p. 1085), but it was necessary to wait until the Legislature actually passed a law increasing the number. The amendment providing for equal suffrage was revived also, No. 8.

On being asked his opinion, H. W. Applegate, Attorney-General,

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20. Brickhouse *v.* Hill, 167 Ark., 513ff. See below, p. 332, for judicial interpretation of this amendment, No. 11.
21. Applegate, *The Constitution of Arkansas Annoted,* 211-13.
22. Combs *v.* Gray, 170 Ark., 956-71.
23. McAdams *v.* Henley, 169 Ark., 97-115.

ruled that the amendment submitted in 1918 authorizing municipalities to issue bonds had been revived by the Brickhouse case[24] and this amendment was published in the Acts of 1925. But when the city of El Dorado attempted to act upon this the Supreme Court ruled that it had been impliedly repealed by Amendment No. 10 (11 in Acts of 1925, p. 1086), adopted in 1924.[25]

Although Amendment No. 10 (11) authorized it to do so, the quorum court of Madison County, where all the revenue from the five mill tax was needed to meet current expenses, refused to issue bonds to take up outstanding warrants. A man who held a lot of these warrants asked the circuit court for a writ of mandamus to compel the quorum court to issue bonds, but Judge J. S. Maples refused. On appeal Mr. Chief Justice Hart, speaking for a majority of the Supreme Court, reversed the decision and ordered the circuit court to issue the writ.[25a]

The new I. and R. provided that no limitation should be placed upon the number of amendments submitted by petition, but said nothing about removing the restriction to three imposed on the Legislature. In 1925 the Legislature offered two amendments to be voted on in 1926, one fixing the upper limit of district school taxes at eighteen mills, the other exempting cotton mills from taxation for seven years. They are numbered 11 and 12. Two were proposed by petition, one authorizing municipalities to issue bonds for the payment of existing indebtedness and for public improvements, and another forbidding the Legislature to pass any local or special act, numbered 13 and 14, respectively. These were all adopted, the lowest vote being 66,915 to 54,768 on municipal bonds, the highest being 97,502 to 40,837 on the school tax, though the majority was greatest on exempting cotton mills from taxation, 102,044 to 31,661.[26]

In the election of 1928 three propositions submitted by the Legislature were laid before the people, one raising the salary of State officials and of legislators ($6,000 for the Governor, plus $1,000 for house rent, and $1,000 for legislators, plus $6 a day for special sessions), another allowing a verdict by nine jurors in civil cases, and another authorizing the levying of a five mill tax to build courthouses and jails. By petition the voters were asked to approve an amendment authorizing cities of the first class in counties having a population of at least 100,000 to levy a tax of not over five mills, the proceeds to be used to secure the location of factories, industries, river transportation, etc. All of these measures were approved by good majorities.[27]

The reader will have noticed the persistent efforts made to secure exemption of cotton mills from taxation for a number of years. This

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24. Letter to Harry A. Jones, Mayor of Hot Springs. Acts 1925, p. 1119.
25. Babb *v.* El Dorado, 170 Ark., 1-16.
25a. Jackson *v.* Madison County, 175 Ark., 826-34.
26. Applegate, 249.
27. Applegate, 249.

was due to a desire to promote industry in the State. Arkansas sometimes ranks high in the production of cotton, exceeding one million bales, and there is a growing feeling that much of this cotton should be manufactured within her borders. Since the adoption of the amendment the International Shoe Company has established a plant at Malvern, capitalized at $1,000,000, for the manufacture of shoe linings. The Magnolia Cotton Mills is another result of exemption. So far (1930), it does not appear that Little Rock, the only city yet eligible under the amendment adopted in 1928, has availed itself of the privilege to levy a tax to secure the location of factories.

The wiping out by the Supreme Court of some amendments once declared adopted and the repeal of some by later proposals has led to a great deal of confusion in numbering. The last four are numbered 15, 16, 17, 18 in the Acts of 1929, but 13, 14, 15, 16 in Applegate. The first, the so-called Fishback Amendment, is the only one that has not been changed. The I. and R. was originally called No. 10, and was so listed in Kirby's Digest. When three were invalidated by the Supreme Court the Secretary of State pushed it back to No. 7 and this was followed by Crawford and Moses, but Castle's Supplement ran it up to 13 and Applegate pushed it back to No. 5.[28] All of this is very unfortunate because of confusion in making citations.

The tendency to the trading of votes to get support for State supported schools and to create more such schools became so alarming by 1929 that the Legislature itself proposed an amendment completely robbing itself of the power to create any more and vesting that power exclusively in the qualified electors.[29]

The passage of the income tax law of 1929 and alleged abuses in administering the State's business so aroused the opponents of such measures that they formed a Taxpayers' Association and employed a full-time secretary. This association fathered seven amendments which were submitted by petition. The first proposes to forbid the Legislature to increase "the present rates for property taxes now levied for State purposes," or to "increase any other rate of taxation for State purposes." The second proposes to create a budget board, composed of the Governor, Treasurer, and Auditor, and to limit the appropriations to the recommendations made by this board; also, to forbid the appropriations of money raised for one purpose to some other purpose. The third says that no bill shall become a law unless the journal shows that it has passed each House and the journal showing this must be deposited with the Secretary of State before the Legislature adjourns. The fourth makes it the duty of the Governor to call special elections to fill vacancies as called for in Article VII, Section 50, of the constitution, or to vote on I.

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28. See Strayhorn, *Law School Bulletin* (University of Arkansas), I, No. 3, pp. 54-58, for an explanation.
29. Acts 1929, p. 1529.

and R. measures when properly petitioned for and makes him subject to a writ of mandamus. No doubt this is partly due to the practice of the governors in filling vacancies under what was once published as amendment No. 3, although it never was adopted under the rule of Rice *v.* Palmer. The Constitution plainly says that the Governor shall call elections to fill vacancies in the Legislature, but the practice has grown up of filling them by appointment. This evil is left untouched by the proposed amendment. The fifth proposal forbids any decrease in salaries of the judges of the Supreme Court except by constitutional amendment. The sixth forbids inheritance taxes except on estates taxed by the United States. The seventh is designed to abolish suits for back taxes, except in case of fraud on the part of the taxpayer.

By reference to earlier chapters, or for most Arkansans to memory, the reader will see that Arkansas has had a good deal of trouble about honorary or paid boards. To a large extent the same is true about appointive and elective boards, commissions, and offices. The county superintendent was made appointive by an elective board so as to keep the office out of "politics." The Highway Commission was made appointive, and honorary except for the chairman, but the charge has often been made that the commission was a political machine. In order to "take the commission out of politics" Lieutenant-Governor Lee Cazort sponsored an amendment by petition to make it elective. This means also that they will be paid, if adopted.

The filing of these petitions runs up to nine the number of amendments, one legislative and eight by petition, which the voters will be asked to pass judgment on in November, 1930.

II—Legislation.

Very little use has been made of the power to participate in legislation, either in vetoing laws passed by the Legislature, or in enacting laws by direct vote of the people. The first opportunity came to pass on a legislative act in the Turner-Jacobson Tax Bill of 1911, the results of which have already been given.[30] This was the only use ever made of the referendum on legislation until 1930, when the income tax law of 1929 was submitted to the people by petition.

Another interesting effort to use the referendum was made in 1919. The Legislature of that year ratified the prohibition amendment (18th) to the Federal Constitution. Some opponents secured the requisite number of signatures for a referendum on this, but the Secretary of State refused to certify it out. The petitioner then asked for a writ of mandamus to compel action on the ground that an act of the Legislature was subject to a referendum under Amendment No. 10 (7), but the Supreme Court refused, saying that the referendum applied only to laws and not

30. *Supra,* pp. 321-22.

to other functions performed by that body. Ratifying an amendment to the Federal Constitution was not the enactment of a law.[30a]

Three originated by petition were submitted in 1912, one for bi-partisan boards of election, one for State-wide prohibition, and one for uniform and free text-books. All suffered defeat. Two more acts originated by petition were submitted in 1914. For some time the opponents of child labor had been trying to get a bill regulating this evil through the Legislature, but employers of such labor and their friends always succeeded in defeating or emasculating the measure. Now a law was submitted fixing the ages at fourteen and sixteen. This carried 72,313 to 25,300.[31]

The second act was somewhat misleading in its title, "An Act to reduce the expense of publishing measures submitted under the authority of Amendment No. 10" (7). It directed the publication of the proposed amendments in one newspaper in each county for twenty days; also, a synopsis of the laws recently passed for ten days; the orders of the Railroad Commission for one time; a summary of the proceedings of the board of equalization in each county, and of the proceedings of the county court; of the report of the county "Commissioners of Accounts" made to the Circuit Court; the reports of the commissioners of improvement districts; and finally "a full financial report of the affairs of each municipality." Every person *(sic)* failing to comply with the provisions of the act was subject to a fine of not over $1,000. Either through carelessness or by design, the levying court was only "authorized" to provide for the payment of such advertising bills, but the municipal council or commission was "required" to approve and the municipality to pay. This act carried 55,552 to 40,728.[32]

The Supreme Court has held that the Legislature has the right to require the publication of certain things as a part of the expense of county government, that the clerk is empowered to make contracts for such printing, and that the quorum court should appropriate to pay.[32a] It did not say that the quorum court was subject to mandamus in case of failure to act, but it probably would, if such a case should ever arise.

The Publicity Act was resented as a subsidy to newspapers and as worthless and several efforts were made to repeal it, but the newspapers were there to defeat repeal. Besides, some urged that, as it had been adopted by popular vote, it could not be repealed by the Legislature, but this argument was unsound. An act was passed requiring a line at the top of the advertisement showing the cost of the publication, and another saying that "the Publicity Act is hereby repealed," but providing that repeal should not go into effect until the next general election, "when the same shall be submitted to the voters for ratification or rejection."

30a. Whittemore *v.* Terrall, 140 Ark., 493-99.
31. Acts of 1915, p. 1505-11. *House Journal,* 1915, p. 46.
32. Acts of 1915, pp. 1511-15. *House Journal,* 1915, p. 46.
32a. Nevada County *v.* News Printing Company, 139 Ark., 502-07. *Cf.* 175 Ark., 826.

If the majority in any county voted for repeal, then it should be repealed in that county.[32b]

This repeal bill illustrates very well the carelessness with which many of our laws are drawn. What the proponent of the measure probably intended was to repeal the part relating to the publication of county and municipal matters, but as passed it included amendments and laws and was, to that extent, unconstitutional. It said that the ballot should contain "For Act No. 3" and "Against Act No. 3," but there was no "Act No. 3," as only two had been submitted. For some reason this provision was carried out in only one county, Dallas, and the result in this county was not reported to the Secretary of State.[32c] Hon. J. S. Utley, Attorney-General, gave it as his opinion that the act had not been repealed, as "implied repeals are not favored."[32d] It was omitted from Crawford and Moses' "Digest" on the supposition that it had been repealed, but was included in Castle's "Supplement."

Dissatisfaction with the primary election law led to the initiation of the Brundidge Primary Election Law, which carried in the election of 1918 by a good majority.[33] Mr. Brundidge had been a candidate to fill the unexpired term of Governor Robinson in 1913 and had been defeated by a narrow majority.

In Reconstruction days both State and National elections were held at the same time. This was inconvenient to the Democrats, for it laid the way open to Federal interference. When they returned to power (1874) they changed the date of State elections so as to avoid this danger. For a while the negroes continued to vote in considerable numbers, but they gradually lost interest in politics and many were debarred by the requirement of a poll tax receipt. With the passage of years the Democrats began to feel that there was no danger of Federal interference or the return of Republican-Negro rule and wished to avoid the expense of two elections. A considerable opposition to this change developed in the counties where negroes were most numerous, but the Legislature of 1915 changed the date to the Tuesday following the first Monday in November, making it coincide with the date for the national elections.[34] The opposition did not subside and the Legislature of 1921 changed the date back to October. This was allowed to stand until 1926, when an act initiated by petition changed the date back to November. This was adopted by a vote of 108,867 to 24,837 and is likely to stand.

In this same election, 1926, a strenuous effort was made by the railroad people to repeal the "full crew law," but it failed, 65,810 to 81,899.[35]

In the Legislature of 1927 a strong effort was made to get the Legis-

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32b. Acts of 1917, II, 2172.
32c. Letter from Hon. J. B. Higgins, Secretary of State, July 19, 1930.
32d. Opinions of the Attorney-General, 1921-22, p. 324.
33. Acts 1917, II, p. 2287ff.
34. Acts of 1915, p. 402. Acts of 1921, p. 74.
35. See Vol. 11.

lature to pass an anti-evolution law, but failed by a narrow majority. The sponsors of the measure, led by Mr. A. L. Rotenberry and the Reverend Ben M. Bogard, initiated a law by petition forbidding the teaching in any school supported by taxation "the theory or doctrine that mankind ascended or descended from a lower order of animals," or to use any textbook incorporating such teachings. The penalty for violation is a fine of not over $500 and loss of position. This law carried by 108,991 to 63,406.

In 1930 an act originated by petition was submitted providing "for the reverent daily reading of the English Bible, without comment, in the public tax supported schools . . . . up to and including high schools." This will be voted on in November, 1930.

Strong opposition was made to the introduction of the I. and R. into Arkansas on the ground that it was an instrument of radicalism. After having studied the history of its operation in this State the reader is left to judge for himself whether the radicals or the conservatives have made the greater use of it.

CHAPTER XXX.

THE REGULATION OF PUBLIC SERVICE CORPORATIONS.

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For the first thirty years after Arkansas became a State, corporations for business purposes, private corporations, were subject to little general regulation by the State, being only under the limitations imposed upon each severally by the Legislature at the time of its creation, and a few general limitations from the common law. There were objections to the method of having corporations created individually by the Legislature, since it meant a great deal of work, it brought the Legislature under pressure to confer special privileges to the detriment of the public, and the system was not uniform. So the framers of the constitution of 1868 joined a movement underway in many states, and forbade the conferring of corporate powers by special act. General acts might be passed for that purpose, with the understanding that they might be altered or repealed, and the property of all corporations was to be subject to taxation. Double liability on the part of stockholders was provided, and the corporation's use of eminent domain was regulated.[1]

The result of this constitutional limitation was the passage, in 1869, by the General Assembly of a general act providing for incorporations, most of which was on the statute books until 1927. This act provided that any number of persons, not less than three, might associate themselves into a corporation for the purpose of engaging in any kind of manufacturing, mechanical, mining or other lawful business, by drawing up written articles of agreement, and by complying with the provisions of the act. The act had two types of regulatory features, one being certain requirements as to publicity, and the other restrictions as to powers and procedure. The first requirement as to publicity was the filing of the articles of incorporation and of a certificate showing the amount of capital stock, the amount actually paid in, the names of its stockholders and the number of shares owned by each. Afterwards, the corporation was to file an annual report as to the amount of capital actually paid in, the cash value of its real estate, the cash value of its credits, the amount of its debts, and the name and number of shares of each of its stockholders. The first filing was with both the county clerk of its principal place of business and with the Secretary of State. The second filing was

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1. Constitution of 1868, Art. V, sec. 48; Crawford and Moses, *Digest of the Statutes of Arkansas,* 1919 (Little Rock, 1921), p. 184. Cited hereafter, C. & M.

with the county clerk. The limitations of power included that of fixing the purpose of the corporation, acts for other purposes being illegal; the fixing of the capital stock, and its division into shares; and the restraints imposed by the liability of stockholders and of directors and officers under some conditions. The usual formalities for carrying on business, as the calling of meetings and electing officers, and leaving the books open to stockholders, were provided. A moderate grant of powers was made, including that of appearing in court as litigant, of regulating its internal affairs, of hiring agents and laborers and acquiring such land as was necessary for its purposes.[2]

The constitution of 1874 retained most of the general principles enunciated in the constitution of 1868 regarding corporations, and added to it a limitation on the powers of corporations which was aimed to reduce the evils of over-capitalization. "No private corporation shall issue stocks or bonds, except for money or property actually received or labor done, and all fictitious increase of stock or indebtedness shall be void. . . . ."[3] A second provision related to foreign corporations, authorizing them to do business in the State under restrictions prescribed by law. Two positive requirements were laid down in the constitution, first that no such corporation should do business in the State except while it maintained a known place of business and an authorized agent in it upon whom legal processes might be served; and, secondly, that the foreign corporations should exercise no greater powers than like corporations created within the State.

Since the constitution of 1874 had only added principles to those previously enacted, the act of 1869 remained as an important part of the law of corporations, and it was only modified by addition when the increasing amount of business demanded greater elasticity in the system. Then provision was made (1895, 1909) giving corporations the power to reduce and to increase their capital stock, and to amend their articles of association to add to the businesses to be transacted. In 1905 corporations were allowed to issue preferred stock, thus making it possible for them to draw additional capital into more venturesome schemes.[4]

Besides the provisions for corporations for the ordinary businesses, the legislature has at various times provided special rules for the incorporation of groups for special purposes. A general act for the incorporation of railroads was approved in 1868, which regulated the methods to be followed quite carefully, and in quite different ways than for ordinary business corporations.[5] By an act of 1899 a board, composed *ex-officio* of several State administrative officers, was provided to decide whether any proposed railroad company should be permitted to be incorporated. The

2. Acts of 1869, p. 179. C. & M., Secs. 1700-31.
3. Constitution of 1874, Art. XII, Sec. 8. C. & M., p. 98.
4. C. & M., Secs. 1727, 1701, 1721, 1703-04.
5. Acts of 1866-68, Act of July 23, 1868. Gantt, *Digest of the Statutes of Arkansas*, 1873, p. 857.

statutes dealing with railroad corporations were often amended. Other special types of incorporation provided were of navigation companies, in 1869; bureaus of immigration, in 1868; benevolent associations, in 1875; traction and lighting companies, in 1901, and in 1921 two different forms of corporations for coöperative business.[6]

By 1923 the General Assembly was displaying an inclination to alter the general laws of incorporation. In that year it permitted ordinary business corporations to use stock having no par value. The Legislature in that year also passed the very important "Uniform Transfer Act," which had been adopted in a uniform draft by many of the states, to facilitate that commercial operation, and "to protect the public."[7] The following Legislature tried to bring the corporation laws up to date in one matter, and also to protect the stockholders, by an act regulating the merger of business corporations.[8] The chief provisions were those requiring full publicity, and to provide means for protecting minority stockholders who might wish to withdraw. The Legislature in 1927 passed two important acts, one being a partial revision of previous statutes regulating corporations, and the second, the "blue sky" law. The revisory act included not only most of the principles previously incorporated in statutes, but also some of the rules developed by the courts, but the act bore the marks of being rather hastily and none too cautiously drawn.[9]

"The Arkansas Securities Act," as it was officially entitled, was the most direct type of control and regulation that Arkansas had ever tried over the ordinary business corporation. The Railroad Commission was given important powers for preventing the sale of such securities as "would work a fraud upon the purchaser thereof." The central duty imposed on the corporation was to "make a proper showing to the Railroad Commission that its assets are at least equal to or greater than its outstanding capital stock and other liabilities." The powers of the commission included the power to require any further information that it might find necessary, the power to make a detailed examination of the company's property and business, and to disapprove and so make illegal the proposed sale of securities. Anyone dissatisfied with any final order of the commission was permitted an appeal to the Chancery Court of Pulaski County.[10] This "blue sky" law goes somewhat further than those of some of the states, in allowing the commission to prohibit the sale of securities it considers unsound.

The General Assembly in 1929 proceeded to another general revision of the corporation laws of the State. The statute enacted seems rather

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6. Act of May 8, 1899. C. & M., Secs. 1747, 1778, 1788, 1757. Acts of 1921, pp. 153, 702.
7. Acts of 1923, pp. 190, 358.
8. Acts of 1925, p. 472.
9. Acts of 1927, p. 854.
10. Acts of 1927, pp. 1137ff.

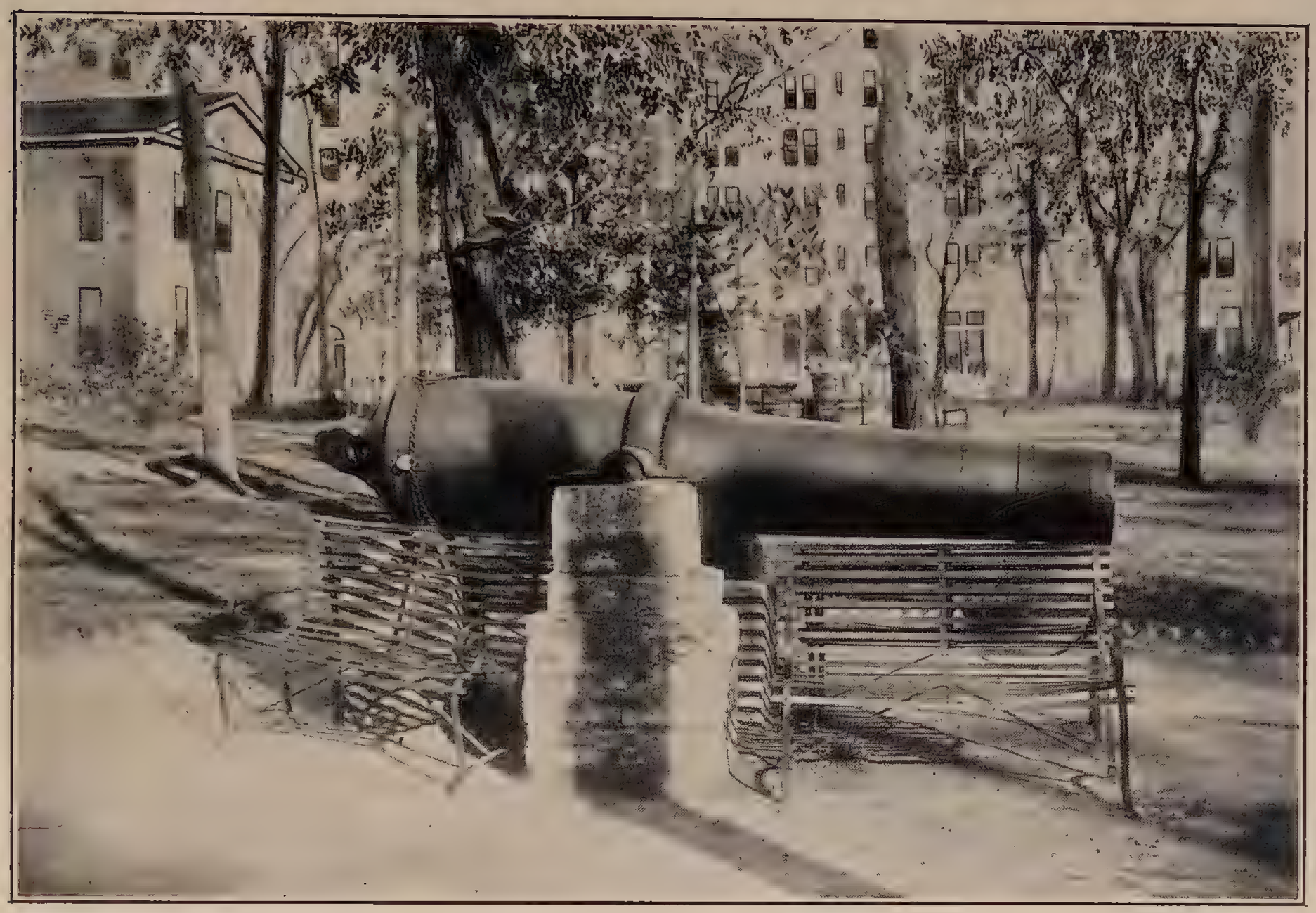
more carefully drawn than that of two years previously, and in a number of particulars it seems more liberal toward the corporations. Corporations may be framed for perpetual existence instead of the ninety-nine years permitted in 1927. The amendment of articles of association is, however, more carefully regulated in the later act. The liability of the stockholder is in some cases reduced under the act of 1929. That act also contains an extensive provision for determining the amount of capital, allows the corporation a little more leeway in reducing its capital, contains extensive rules regulating voting in corporation elections and regarding resident agents, and regulates mergers and consolidations.[11]

Closely related to the regulation of corporations because it involved corporations pretty largely, was the problem of regulating businesses which have grown to large scale, which confronted all the states in the closing years of the nineteenth century. The problem seemed to appear in Arkansas most prominently in the insurance and the cotton seed businesses, although the Legislature undoubtedly had others in mind also. Between the greater organizations or corporations combines to fix prices were easy and logical, and a few corporations were so powerful that they alone were almost able to dominate a field. The common law was unfriendly to such methods and conditions, but the common law rules were narrowly drawn, and the enforcement was only by a law suit brought by an individual who found his rights infringed. So the Legislature undertook in the "Rector Anti-Trust Act," of 1899, to define a new offense, that of conspiracy to affect prices, and to provide penalties which should be collected under prosecution by the State. Any corporation doing business in the State, or any individual, who should create "any pool, trust, agreement, combination, confederation or understanding" to fix or limit the price or premium of any commodity, convenience or of insurance, "shall be deemed and adjudged guilty of a conspiracy to defraud."[12] Prosecutions by the Attorney-General, Jeff Davis, were started at once, and shortly the case of Lancashire Fire Ins. Co. *v.* State was passed on by the Supreme Court, where the court held that the act did not apply to pools or combinations formed outside of the State, and which were not intended to, and did not, affect persons or property or prices of insurance in the State.[13] The Attorney-General then dropped all cases prosecuted under the act and made the race for Governor on the issue, promising to make the law very much alive.

The next General Assembly had a bill before it intended to extend the offense to pools or conspiracies entered into outside the State which might have their effects likewise outside the State. Neither that Assembly nor the succeeding one passed the bill, but after the platform of the

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11. Acts of 1929, p. 912, Secs. 3, 12, 18, 19, and Arts. XIII and XIV.
12. Acts of 1899, p. 50, Sec. 1.
13. 66 Ark., 466.



LADY BAXTER GUN, USED IN THE BROOKS AND BAXTER WAR IN LITTLE ROCK IN 1874



SHRINE COUNTRY CLUB, LITTLE ROCK

Democratic party declared for the principle in 1904, the Assembly rushed through an act which became law January 23, 1905. This act was quickly brought to the Supreme Court for construction. In another insurance case the court held that the act did reach, and constitutionally could do so, agreements entered into outside the State, and taking effect outside the State.[14] As a result of this decision, over two-thirds of the fire insurance companies operating in the State withdrew.[15] The General Assembly did not feel this to be satisfactory, so at the succeeding session it enacted a special rule to apply to insurance corporations, permitting them to do business in the State if they were not members of an agreement to fix premiums on property within its border.[16] The old line insurance companies soon came back.

The Assembly attempted to get at some of the conspiracies to affect prices by requiring all corporations doing business in the State to file an affidavit every year declaring that they were not a party to any such conspiracy.[17] The International Harvester Company failed to file such a statement, but when the State brought suit to recover the penalties named in the act, the court held that the act had not made the failure to file the affidavit an offense, so the prosecution failed.[18]

That the Legislation against the fixing of prices by business combinations has not been useless is indicated by the case of State *v.* Cotton Oil Co.,[20] in which the court held that the penalties for alleged violations of the anti-trust statutes will not be enforced when the corporation, during the pendency of the suit, surrenders its charter.

The first effort to regulate the railroad is found in a statutory declaration (1868) that the Legislature should from time to time reduce the rates charged by the railroads so that they might make no more than fifteen per cent. profit on the capital actually invested.[21] The same act introduced a few regulations of the manner of service, requiring a regular schedule of trains, requiring the railroads to transport any persons or property offered for that purpose, prohibiting an intoxicated person from having charge of a train, and similar matters. The Legislature did not undertake to regulate the rates to be charged by each railroad, however, only contenting itself with such enactments as that of 1873, which provided that no railroad in the State should charge more than five cents a mile for first-class passengers or three cents for second-class, and not more than fifty cents per hundred pounds and ten cents per cubic foot on freight per hundred miles.[22]

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14. Hartford Fire Ins. Co. *v.* State, 76 Ark., 303ff.
15. Auditor's *Biennial Report,* 1905-06, pp. 6-7.
16. C. & M., 7369. Act April 17, 1907, p. 430.
17. Act January 23, 1905. C. & M., 7375.
18. State *v.* International Harvester Co., 79 Ark., 517.
19. C. & M., 7375. Act. of March 12, 1913, p. 680.
20. 116 Ark., 74.
21. Acts of 1868, pp. 307-08. July 23, 1868.
22. Acts of 1873, p. 425.

There were two important difficulties in this sort of regulation: it was too inflexible and too cumbersome to keep the railroads from many abuses, and the burden of enforcing the rights of the public rested on the difficult process of law suits brought by such private individuals as found it worth their while to start on a course of litigation.

The beginning of a more effective regulation of the railroads came in the administration of Governor Daniel Webster Jones, when the Assembly, in 1897, submitted to the people an amendment authorizing the Legislature to create "offices and commissions" for the better regulation of railroads. The amendment was necessary to authorize the Legislature to create a permanent State office which was not provided for by the Constitution. Governor Jones had recommended the establishment of a railroad commission in his inaugural address, suggesting a temporary body until an amendment should allow the Legislature to set up a permanent body. The Assembly waited until after the people had adopted the amendment, however, seeming to wait for sentiment to develop to protect it from the opposition. At the following session the Assembly (1899) passed two acts which established the Railroad Commission, regulated its powers and procedure, and imposed new duties and limitations on the railroads.

The commission was to be composed of three persons, not interested in any railroad, appointed by the Governor with the concurrence of the General Assembly in joint session, the men coming from three districts into which the State was divided for the purpose. Thereafter the commissioners were to be elected from those districts, for a term of two years. The Governor was given full power to fill vacancies for the unexpired term. The commission was empowered to appoint a secretary, an expert, and a stenographer, and to make all needful rules "for their own government." Several duties were imposed on the railroads and express companies, partly to help the commission and partly to protect the public. They were required to furnish the commission with their rate sheet and tariff charges for all sorts of transportation; secondly, to keep posted at every depot complete schedules of rates and services. They were required to furnish sufficient facilities for the care of persons and property transported. They were also to make an annual report to the commission of receipts and expenditures. They were prohibited to discriminate between shippers in rates or services, or by rebates. The pooling of freight in any form was also forbidden, as well as a greater charge for a short than a long haul.[23]

The powers and jurisdiction of the commission were rather broad from the beginning. The commission was given sweeping powers to inspect books and papers, to conduct hearings, and regulate freight, express, and passenger rates, and to determine the valuations of the

23. Kirby, *Digest*, Secs. 6788-6812.

railroads. For general violations of the act, the penalty was from five hundred to three thousand dollars for each violation, to be recovered by proceedings started by the commission.[24] An injured party was allowed to recover double the damages sustained plus cost.

The first report of the Railroad Commission indicates that men of ability made it up, and recounts a considerable struggle to get the commission into a working organization, to get the railroads in hand, and to get public confidence. To make a beginning on the regulation of rates, they adopted the rate sheets of the railroads, ordering them to be applied strictly to all shippers. This gave a chance to test the reasonableness of the rates, and also, it brought a great outcry from shippers who had previously been the recipients of special rates and rebates, who came to the commission complaining, and giving evidence of the practices that had obtained. The commission found this information a sufficient answer to the plaints of the railroads when reductions of rates were subsequently ordered.[25] When the commission investigated the rate sheets of the roads, they found several varieties of rates and those applied in a highly discriminatory manner, both as to people and places. The effect of such discrimination might have been to build up the trade centers at the expense of other localities, if it had not been that even lower rates were given to shipments in inter-state commerce from the greater trade centers. As a result local commerce was in a way to be destroyed by the manipulations of the railroads.[26]

The first remedy adopted by the commission was to establish the "Standard Freight Distance Tariff," applying to all commodities and between all stations in Arkansas. This tariff was considerably lower than the distance tariffs had been before, and being based chiefly on distance, it cut out the discrimination between localities. Since it was based on cost, the rate was proportionately less per mile for the longer distances, thereby starting competition in local commerce. To meet the reduced inter-state rates, the commission worked out a classification of services, reduced local rates, and made commodity rates wherever necessary to protect competition.[27] It was even found that the use of a commodity rate on cotton seed could be used to destroy the control of a powerful combination for keeping down prices by districting the State in their buying and protecting their monopoly from the competition of other buyers by an arrangement of freight tariffs. The commission attempted to establish a cotton tariff, especially to reduce the local rates to compress points, but the attempt was so much misinterpreted and misunderstood that it soon was forced to cancel the tariff.[28]

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24. Kirby, *Digest,* Secs. 6802, 6808-10, 6817, 6821-23, 6825.
25. *Annual Report of the Railroad Commission,* 1899-1900, pp. 5-6.
26. *Ibid.,* pp. 9-17.
27. *Annual Report,* 1899-1900, p. 24.
28. *Ibid.,* pp. 26-36.

The commission fell into a lot of litigation, though most of its work was little interrupted. When an injunction interferred with a schedule of express charges, it compromised the matter, and soon promulgated a schedule which was still forty per cent. below previous rates. When the commission undertook to control the rates on a shipment of goods from one point to another in Arkansas, which for part of the way went through Indian Territory, it brought to the United States Supreme Court a suit, but lost it, settling that point against the power of the State.[29] The reports of the commission show, from the very first, that while some litigation was inevitable, the commission was able to handle a great many complaints and questions by means of correspondence, conference, and occasional orders and opinions, a part of which would have resulted in more expensive litigation, and the rest of which would have gone unsettled with the public the loser.

The Assembly did not leave the regulation of rates entirely to the commission. The acts of 1899 did not specifically repeal previous legislation fixing maximum rates, and it was held that an act of 1887 doing so, was still in force.[30] The Assembly did not proceed to repeal this act until it decided to replace it in 1907 by one further lowering the maximum rates.[31] For lines less than sixteen miles in length, five cents per mile was fixed; sixteen to eighty-five mile railroads might charge three cents; all lines over eighty-five miles in length were restricted to two cents. In 1915 the Assembly revised the classes slightly, the second class being from sixteen to 125 miles in length, and the third all over 125 miles in length. The railroads soon found these rates quite unsatisfactory, especially as the level of prices rose steadily. In 1914 they united to take action, applied to a Federal District Court for an injunction, and secured a temporary order, restraining the enforcement of certain freight rates established by the Railroad Commission and the two-cent passenger rate. After a period of argument, experimenting with various rates and investigation, the injunction was made permanent. The State appealed to the Supreme Court of the United States, but that court agreed that the railroads had shown the State rate to be confiscatory.[32] The State's power over freight rates within the State was further limited in 1916 by an order of the Interstate Commerce Commission ordering inter-state railroads in the State to bring their intra-state rates within one cent per hundred pounds of the inter-state rates, to prevent discrimination against the latter. The order was acquiesced in.[33]

Since the establishment of the Railroad Commission, the Assembly has been constant in supporting and extending its power and jurisdiction.

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29. Hanley *v.* Kansas City, etc., Rwy., 187 U. S., 617.
30. Chicago, R. I. & Pacific Rwy. Co. *v.* McElroy, 92 Ark., 600.
31. Acts of 1907, No. 8, Feb. 9, 1907.
32. Rowland *v.* Boyle et al., 244 U. S., 106. May, 1917.
33. See 130 Ark., 223. 197, SW., 1.

In 1907 the commission's jurisdiction was extended to the rates and service of sleeping cars, and the commission was given wide powers over train service and many incidental features of rail service. In 1909 the commission was given the power to make rules governing the handling of freight, so that it might meet the troubles of shortage of cars, and it was given power to fix joint rates, to avoid the rates for a succession of short hauls. The commission was given powers and duties to keep the roadbeds safe, and highway crossings protected.[34]

In 1919 a great change was made in the Railroad Commission, the Legislature, in fact, abolishing it, and erecting a Corporation Commission, which should regulate not only railroads, but all other public utilities. This commission succeeded to all the powers of the Railroad Commission, and was given several important new powers which applied to all utilities, including the railroads. Rates could not be changed except after thirty days' notice to the commission, which could suspend the new rates while it investigated them. The railroads were forbidden to abandon any part of their line without obtaining the approval of the commission, nor were any utilities to issue bonds or other evidences of indebtedness except under the rules established by the commission, and under authorization by the commission. The orders of the commission were put on a more regular basis, by a provision for an appeal from the commission to the Pulaski Circuit Court, and thereafter to the Supreme Court of the State.[35]

When the Corporation Commission was abolished in 1921 and the Railroad Commission reëstablished, the latter was left with not only its old powers, but also with the newer types conferred in 1919. The public esteem of the Railroad Commission for all other purposes aside from regulating local utilities is indicated by the important additions to its power since 1921. The commission was made the administrative agency for enforcing the "blue sky" law of 1927, which involved important discretion.[36] The Assembly at the same session gave it even more extensive powers for regulating bus transportation than it had regarding railroads.

The development of public service businesses aside from railroads began with the development of waterworks companies and a little later gas companies, street railways, electric companies, and telephone companies. Since all of these utilities began in the cities, and since they all needed to use the streets, the usual start involved getting permission from the city to use the streets. This permission, given under the name of a franchise, was expanded into a full fledged contract between the utility and the city, involving not only the way in which the streets should be used, but the service to be furnished, and the rates to be charged. While

34. C. & M., Secs. 1633-34, 1638-39, 1644, 1646-47, 1649-50.
35. Acts of 1919, pp. 411ff.
36. Acts of 1921, p. 177. Acts of 1927, pp. 257, 1137. (These changes were made largely for economy.—Editor.)

this method of regulating the utilities did not always protect the public well, and frequently involved graft or political jobbery, it worked fairly well until the services became more extensive, the corporations largely consolidated, and the demands for good service more imperative. In 1903 the General Assembly made a rather curious attempt to make the city council of every city and town in the State an administrative board "to determine whether or not the prices charged for water, gas or electricity, is reasonable"; empowering them, if they found that some or all of the citizens were charged unreasonable prices, to fix a reasonable charge. The city council was authorized to carry on an investigation of the rates when complaint was filed with them by five or more citizens, and to require the testimony and exhibition of the books of the company being investigated, and the utility was declared guilty of a misdemeanor, with a fine of twenty-five to five hundred dollars for each day, if it refused to accept the rate so fixed.[37] This piece of legislation was stringent enough, but the city councils were, of course, hardly fit bodies to wield such extensive powers, nor were they likely to do so effectively.

When the Corporation Commission was established in 1919 to control and regulate all utilities within the State, the General Assembly was moved to do so, it seems, for several reasons. The municipal utilities needed centralized regulation. A single commission was more likely to be effective than if the power was divided, and it would leave the State administration fairly well centralized. And the Assembly wanted an agency that could put into effect some of the newer principles of utility regulation that had been worked out in all parts of the nation. The two primary functions put on the commission were, of course, the regulation of rates and the investigation of complaints of discrimination and overcharge.[38] Some of the newer principles were that the utility must get from the commission a certificate of convenience and necessity before further expansions; that all permits or franchises thereafter granted to a utility should be indeterminate, leaving the municipality the option of buying the business; and, finally, that the issuance of all securities should be under the authority of the commission.[39]

The Corporation Commission seems to have made a sincere and able effort to administer wisely, but change was bound to bring criticism; and, too, the commission faced difficult circumstances. It was a time of rising prices, during which old rates of all sorts had to be adjusted upward, so that good work would not be very evident to the unitiated.[40] In making this revision the commission found it necessary to set aside several municipal contracts or franchises, thereby raising vigorous opposition, but its action was upheld by the national Supreme Court. The

37. Act of April 21, 1903. Kirby's *Digest*, Secs. 5445-47.
38. Acts of 1919, p. 411, Sec. 7. C. & M., Sec. 1689.
39. C. & M., Secs. 1653, 1655, 1657-62.
40. *First Biennial Report*, Corporation Commission of Arkansas for 1919-20, pp. 2-10, 13.

commission was forced to try to defend not only these actions, but also some of the new principles of the act of 1919, since there was considerable dissatisfaction over the requirement of certificates of convenience and necessity, the restraint on the issuance of securities, and the indeterminate permit with its monopolistic features.[41] But too much criticism was aroused in the cities for this experiment to continue long, so in 1921 the Assembly changed its policies again, and reëstablished the control of the municipalities over all utilities within their limits, about as it had been in 1903.[42] But the Railroad Commission that was set up in 1921 was not quite the same as it had been, since most of the additional regulatory powers that had been given the Corporation Commission were left in the hands of the Railroad Commission, to be exercised over all utilities outside the municipal limits. Since most of the utility companies served many towns, it meant that they were still under control as to expansions and the issuance of securities. Perhaps the most backward step was the repeal of the requirement of indeterminate franchises.[43] Since 1921 there has been only incidental legislation on municipal utilities, which from its nature indicates rather unsettled conditions, as does also experimentation in various cities with municipal ownership.

An interesting act was passed in 1921 declaring another business to be a utility, the manufacture and sale of ice, and putting it under the regulation of the Railroad Commission. As a part of regulation the act granted to the commission the right to refuse a permit to a new company to engage in this business when it was satisfied that the community was adequately supplied.[44] The refusal of the commission to grant a permit soon brought the act before the courts. The Supreme Court upheld the act so far as it related to the manufacture and sale of ice, but declared unconstitutional the section authorizing the commission to prevent competition. In rendering this decision the court went on to say that an act could be declared null and void, not only because it violated some express provision of the Constitution, but also if it was "opposed to natural right or the fundamental principles of liberty,"[45] a view which is not universally accepted. The incident is further interesting in that it displays some faith in State-wide regulation by an administrative body.

An important beginning was made in the regulation of insurance by the basic act of April 25, 1873, the principles of which have never been seriously altered, later changes being only additions and extensions. In that act "The Insurance Bureau" was provided for in the office of the State Auditor, with an Insurance Commissioner at its head.[46] The next session of the Legislature did away with this extra officer, conferring

41. *Ibid.*, pp. 14-23.
42. Acts of 1921, p. 177, Secs. 1-3.
43. Acts of 1921, p. 207.
44. Acts of 1929, Secs. 15-17, p. 110.
45. Cap F. Bourland Ice Company *v.* Franklin Utilities Company, 22 Southwestern Reporter, 2d, 993ff.
46. Kirby, *Digest,* Sec. 4326.

all his duties and powers on the Auditor, who thenceforth held them until 1917. In addition to the general duties to see that the laws were executed, he had the specific duty to calculate the net value of all life insurance policies that each company in the State had in force at the end of the year. In case the Auditor did not find that the company had a sum on hand in safe, legal securities which would equal that net value, he was to publish the fact that the company was below the standard of safety fixed by the State; he should require the company to cease doing new business; and then start proceedings to determine further action.[47] A similar process was provided for fire insurance companies, and if under it the Auditor found the company deficient, he could require it to make good its whole capital stock in sixty days, or to cease new business. Thereafter, in the case of life insurance companies, the Auditor proceeded to conduct a thorough investigation, and if he found it likely to retrieve its affairs, he permitted the company to remain in charge of its business for a year, and longer, if it seemed proper. The fire insurance company might be permitted to reduce its capital stock, or issue new stock, under control of the Auditor. If the Auditor found any insurance company insolvent or fraudulently conducted, he was under duty so to inform the Attorney-General, who would proceed to wind up the company's affairs. The Auditor was given power to publish the results of an examination of the affairs of any company when he found it to the interest of the public to do so, and to suspend the entire business of any company in the State when he found its assets insufficient, or when the company was not complying with the State laws. The Auditor was given, of course, wide powers of investigation.

The reports of the Auditors from time to time show that official satisfied with the method of regulation, and the continuance of those methods argues general support and satisfaction. The Auditors did, from time to time, urge, however, that mutual, assessment, and coöperative insurance companies were in need of being put under restraint, and also brought under his office.[48] The Legislature was rather slow in doing so, but from 1887 on those types of insurance companies, as well as fraternal benefit societies and farmers' mutual aid associations, were the subject of acts too numerous to list here. Aside from providing incorporation, those acts regulated the incidents and procedure of their business. All of the companies were affected by some of the regulations. Reinsurance was restricted and put under regulation of the Auditor. All insurance companies were required to file bond with the Auditor, to be approved by him, for the prompt payment of all claims arising from their insurance policies, or in place of it to make a deposit of securities to be approved by the Auditor. Provision was made for the deposit of securities with the

47. *Ibid.*, Sec. 4330.
48. *Report of Auditor*, 1888, pp. 4-5; 1896, p. 11.

State Treasurer, to cover the legal reserve on policies for domestic companies, with reciprocity in this matter allowed with other states. Rating bureaus were put under the regulation of the Auditor, so that discriminations might be prevented and exhorbitant ratings ordered reduced.[49]

The administrative agency to enforce the insurance laws has not changed greatly since its creation, except in name and location. The Auditor was relieved of these duties in 1917, when the office of Insurance Commissioner and State Fire Marshal was created. In 1925 this office was abolished and the office of Commissioner of Insurance and Revenues was created, but this in turn was abolished in 1927, when the previous office was reëstablished.[50] Throughout all these changes the powers and duties dealing with the regulation of insurance and the enforcement of laws in regard to it, have remained unchanged.

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49. See Acts of 1901, 1905, 1909, 1913, 1919. C. & M., 5989-90.
50 Acts of 1927, p. 340.



CHAPTER XXXI.

LABOR LEGISLATION IN ARKANSAS.

By Robert A. Leflar, A. B., LL. B.,
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An agricultural State, fairly conservative in its political attitudes, depending for labor largely on a considerable negro population, and with its white laborers usually employed in small industries and scattered localities, is not apt to have been much touched by the organizing hand of the trade union. And without intensive organization on labor's part, coupled with intensive activity during legislative sessions, labor legislation is not likely to be enacted save in perfunctory form and quantity. This will be true as to any type of legislation designed principally for the benefit of a particular group or class, no difference how generally beneficial such legislation might be to the whole social body. A Legislature acts upon the measures which are vigorously called to its attention. It does not act upon measures which are not pressed upon it by active supporters, even though the citizenry of the State as a whole would be quietly agreeable to such measures. This fact may be regrettable, but it remains a fact. It explains why labor legislation in Arkansas is not as yet extensive.

Still, Arkansas has enacted numerous statutes, most of which are typical of enactments in semi-agricultural states situated much as Arkansas is in this respect. The history of labor legislation in Arkansas will run parallel with that in the average Southern or mid-Western non-industrial State. For that reason a study of such legislation here should have real value.

In almost every one of the American states, the earliest legislation beneficial to laborers as a class was the so-called laborer's lien laws. The Arkansas act of July 23, 1868, was typical of early enactments, both in its broad generality and its narrow practicality. It covered only articles actually "produced" by the laborer, and procedure under it was not easy. It was at least partly superseded by the act of March 21, 1883, which changed procedural requirements somewhat, but apparently did not add to the cases covered by the lien law. Then in 1895 the lien was made to rest not only on articles "produced," but on articles "worked on" by the laborer as well, and was made valid even as against purchasers of the article. The law remains today in substantially that form.[1] Numerous statutes have since been enacted giving liens to laborers or mechanics of particular classes, or for particular types of work. These include liens in

1. Crawford & Moses' *Digest,* Laws of Ark., Secs. 6848-65, 6878-88.

favor of blacksmiths, auto repair men, persons engaged in the construction or repair of buildings or boats, persons having any kind of a claim for labor against a railway, workers in mines and quarries, on oil and gas wells and pipe lines, well and cistern diggers, and others.

Closely related to the laborer's lien laws are statutes giving a preference to those creditors of insolvent persons or corporations whose claims are for wages or salaries. Such a statute relating to insolvent corporations was enacted in 1893, and the rule was extended to all insolvent debtors in 1897.[2] Exemptions of laborers' wages from garnishment, to some extent, are also found in nearly all states. The Arkansas provision, enacted in 1909, exempts sixty days' wages, provided this amount, when added to the personal property owned by the laborer, does not exceed the amount of personal property constitutionally exempt from attachment.[3] Another statute, enacted in 1897, prohibiting garnishment of a railway employee's wages, for less than two hundred dollars, prior to securing judgment, seems to have resulted more from sympathy for the plight of the garnishee railway than for that of the employee debtor.[4]

In sharp contrast with the legislation just discussed, which raised no difficult legal problems, was a series of enactments regulating the contracts of laborers, against which the charge of unconstitutionality was urged.

Among the first of these was an act of March 25, 1889, providing that any corporation or person operating or constructing a railway, and employing laborers, who should discharge such laborers, with or without cause, must pay their wages in full on the day of discharge, else as a penalty such wages should continue to accrue at the regular daily rate, until they should be paid, such accrual of wages not to continue longer than sixty days.[5]

The validity of this statute came before the Arkansas Supreme Court in the case of Leep *v.* St. L., I. M. &. S. Ry.[6] The statute was upheld, though the judges were divided among themselves, Chief Justice Bunn rendering a vigorous dissenting opinion. Mr. Justice Battle's majority opinion held that the penalty was valid as to corporate employers, but not as to non-corporate individuals. As to individuals, it was ruled that the statute violated constitutionally protected property rights; but the State's reserved power to amend the charters of domestic corporations was deemed enough to uphold the statute as against these creatures of the State. The railway did not appeal the case further.

The same problem was soon presented again to the same railway company. One Charles Paul was employed by the Iron Mountain Rail-

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2. Crawford & Moses' *Digest*, Secs. 1798, 5888.
3. Crawford & Moses' *Digest*, Sec. 5546.
4. Crawford & Moses' *Digest*, Secs. 4907-08.
5. Crawford & Moses' *Digest*, Secs. 7125-27, combining above statute with an amending act of 1905.
6. 58 Ark., 407 (1894).

way at a wage of $1.25 a day. He was discharged without immediate payment of $21.80 due him as back wages. He thereafter brought suit before a justice of the peace in Saline County to recover the $21.80 plus wages at $1.25 a day for an added period after his discharge. The case was carried by appeal through the Circuit Court and the Arkansas Supreme Court, the latter court, of course, following its decision in the Leep case and upholding the penalty.[7] Then appeal was taken to the United States Supreme Court. Counsel appearing for the plaintiff Paul included Augustus H. Garland. The opinion of the court was rendered on March 6, 1899, by Chief Justice Fuller, affirming the Arkansas decision.[8] The court's opinion seemed to rely more on the police power of the states than on the reserved power to regulate domestic corporations.

At about this time the legislatures of several states were recognizing a real evil connected with the payment of wages for labor. Many large employers, especially those operating in areas distant from towns, would contract with men for a named wage, but instead of paying the wage in cash, would issue for all or a part of the amount due orders on the company store. These company stores, thus having an assured group of customers, were unaffected by competition, and were able to charge abnormally high prices for the goods they sold. The result was that employees received less than the current purchasing power of the corresponding cash wage. Several states enacted legislation designed to prevent this. Such legislation generally took the form of a requirement that all wages be paid in cash, or that orders on company stores, if issued, be redeemable in cash as well as in "truck." The generic name "Truck Acts" was applied to these enactments.

The Tennessee Legislature passed such a statute. It was attacked in two cases, one brought by a Tennessee corporation and one brought by a foreign corporation doing business in Tennessee, and both cases were carried to the United States Supreme Court. The first case decided was that of the domestic corporation, the case being Knoxville Iron Co. *v.* Harbison.[9] Mr. Justice Shiras spoke for the majority of the court in an opinion affirming Tennessee's holding that the statute was valid. It was decided that the "truck act" constituted a valid exercise of the State's police power, and as such involved no unconstitutional deprivation of freedom of contract nor taking of property without due process of law. The opinion was based to a considerable extent upon the court's prior holding favoring the validity of the Arkansas wage statute, already discussed.[10] It was pointed out that though the former case laid stress in its reasoning on the reserved power of the State to amend corporation charters, it also could be put on the ground that " . . . . the right to con-

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7. 64 Ark., 83 (1897).
8. 173 U. S., 404.
9. 183 U. S., 13 (1901).
10. St. L., I. M. & S. Ry. *v.* Paul, *supra*, p. 347.

tract is not absolute in respect to every matter, but may be subjected to the restraints demanded by the safety and welfare of the State and its inhabitants" so that "the police power of the State may, within defined limitations, extend over corporations outside of and regardless of the power to amend charters." The case of the foreign corporation doing business in Tennessee was decided the same way in a brief opinion merely holding the same reasoning applicable.[11]

Within a few years Arkansas enacted a "truck act" as drastically definite as any in the United States. It prohibited the payment of wages in scrip or in orders on company stores, and prohibited employers from compelling employees to trade at company stores. (See Crawford & Moses' "Digest," Secs. 7128-30.) Thus Arkansas legislation played some part, even though indirectly, in one of the most important battles of the great constitutional war still being fought to determine whether the Constitution's guaranty of liberty of contract is an abstraction hardened in a fixed unbending mold, or a vital living guaranty which by legislation may be fitted to current facts and needs.

Another piece of Arkansas Legislation was itself the cause of a famous battle in the same war. This legislation was known as the "Screen Act," and was first put on the statute books in 1905.[12]

Coal mining companies in this and other states frequently paid their miners on the basis of the quantity of coal mined, rather than by the hour or day. And many of these companies paid only for screened coal. That is, the laborer's contract provided that he should be paid at a certain rate per ton for coal remaining after having been run over a screen with a mesh of a certain size. Miners commonly objected to such contracts, for various reasons, though, of course, they would accept such contracts if they were all that the company would give. Several states then enacted so-called "Screen Acts," of which the Arkansas statute was typical. It simply prohibited such contracts, providing that miners should, if paid on a quantity basis, be paid by run-of-the-mine weight, the coal not to be screened till after the miner's pay was determined, although the company could, if it wished, reject the coal offered by the miner altogether.

This statute was objected to both as violating the due process clause and the freedom of contracts clause of the Constitution. An agreed case was made up, in which the State of Arkansas prosecuted one John McLean, local manager of a coal mine near Hartford, Arkansas, owned by a foreign corporation, for entering into such a prohibited contract with a miner and carrying out the contract's provisions. A conviction was secured in the Circuit Court of Sebastian County, and affirmed by the Arkansas Supreme Court.[13] Appeal was then taken to the United

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11. Dayton Coal & Iron Co. *v.* Barton, 183 U. S., 23 (1901).
12. Crawford & Moses' *Digest*, Sec. 7276, which includes the amending act of 1915.
13. 81 Ark., 304 (1906).

States Supreme Court. In that tribunal the opinion was rendered by Mr. Justice Day; Brewer and Peckham dissented, as they had done also in the "truck act" cases.[14] The majority point out that " . . . . liberty of contract is not universal, and is subject to restrictions passed by the legislative branch of the government in the exercise of its power to protect the safety, health, and welfare of the people." Warning was then given that the police power is not unlimited, and is subject to judicial review, but "The Legislature, being familiar with local conditions, is, primarily, the judge of the necessity of such enactments. . . . . If the law in controversy has a reasonable relation to the protection of the public health, safety, or welfare, it is not to be set aside because the judiciary may be of opinion that the act will fail of its purpose, or because it is thought to be an unwise exertion of the authority vested in the legislative branch of the government." The court again took the same position on a similar Ohio statute in Rail & River Coal Co. *v.* Yaple.[15]

The general feeling of the people of Arkansas toward humanitarian labor legislation was clearly shown in 1914, when a State Child Labor Law was presented to them in the general election, as an initiated act. The act was adopted by a vote of 70,889 to 25,669. Only three counties, Columbia, Montgomery, and Sharp, gave majorities against the measure. The act was amended in 1917 by the Legislature, to make it conform to the Federal Child Labor Act, which was later held unconstitutional by the United States Supreme Court. Apart from this amendment it still stands (Crawford & Moses' "Digest," Secs. 7085-99) as a fairly comprehensive body of rules governing child labor, but enforcement, at least in rural sections of the State, has never been vigorous.

The overwhelming approval given this initiated measure was probably the moving force inducing the next session of the Legislature to enact also a statute setting up minimum wages and maximum hours of labor for women workers. The statute, passed in 1915, has been much amended since. (Crawford & Moses' "Digest," Secs. 7102-14). Among other provisions, it prohibited night work for women, set a maximum nine-hour day and fifty-four-hour week, set a minimum wage of one dollar a day for inexperienced and $1.25 a day for experienced workers, applicable to piece work as well as to flat rates of pay, and provided for administrative machinery which might change the strict rules of the act in special cases.

There have been no attempts to regulate wages for men, and the only regulation of their hours has been in a few dangerous industries, where for the most part the safety of others than the laborers themselves was involved. These were an act of 1903 relating to railway trainmen, an act of 1905 relating to sawmill employees, and an act of 1907, relating to railway telegraphers and 'phone operators.[16]

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14. 211 U. S., 539 (1909).
15. 236 U. S., 338 (1915).
16. Crawford & Moses' *Digest,* Secs. 7077-79, 7082-84, 7080-81.

The culmination of this legislative series came in 1924. The child labor amendment to the Federal Constitution was then presented to the states, and Arkansas was the first to ratify it. Governor T. C. McRae had called the Legislature in special session, for June 23, 1924, to consider a taxation program for the relief of the public schools. The amendment was submitted, and vigorously favored by friends of humanitarian movements, led by Miss Erle Chambers, a member of the Lower House, from Pulaski County. The opposition was bitter, being generally based on objection to Federal encroachment on State's rights, rather than on the fundamental issue of abolishing child labor. Ratification was first voted in the House, 45 to 40, and then in the Senate, 15 to 13, and the resolution was on the same day approved by Governor McRae.

A number of statutes designed to require safe working conditions in particularly dangerous industries have also been enacted. Among the first of these was one adopted in 1893 setting up safety rules and requiring installation of certain safety appliances in coal mines. Frequent additions and amendments have increased the effectiveness of this act.[17] Other typical statutes in this field were those requiring railways to erect repair sheds at division points, for the protection of workmen repairing railway equipment, and requiring railways to put blocks in "frogs" and guardrails, to prevent employees from getting their feet caught.[18]

Real point was for the first time given to numerous prior enactments when, in 1913, a Bureau of Labor and Statistics, with an appointive commissioner in charge, was created. The commissioner was authorized to investigate conditions in industrial plants in the State, and to institute prosecutions for violations of labor laws which he might discover. Employers were required to make certain regular reports to him, and he was required to issue biennially a report on labor conditions in the State.[18a] A later act joins with the act of 1913 in permitting the commissioner of labor to act as an arbiter in labor diputes under certain circumstances, but no compulsory arbitration is even suggested.[19]

One of the most fruitful sources of political contention among labor laws in Arkansas is a series of safety statutes known as the "full crew laws." An act of 1907 required that freight trains of twenty-five or more cars, on lines fifty miles or more in length, must be operated by six named employees; an act of 1909 required passenger trains of a certain standard to be manned by five named employees; an act of 1913 required switching crews in yards of a certain type to be composed of six named employees.[20] The validity of these acts was contested in the State courts, but upheld, in C. R. I. & P. Ry. Co. *v.* State,[21] in a strong opinion deliv-

17. Crawford & Moses' *Digest,* Secs. 7260-85.
18. Acts of 1905, p. 593; Acts of 1911, p. 257.
18a. Crawford & Moses' *Digest,* Secs. 6535-48.
19. Acts of 1923, p. 351.
20. Crawford & Moses' *Digest,* Secs. 8577-86.
21. 86 Ark., 412 (1908).

ered by Chief Justice Hill. Appeal was taken to the United States Supreme Court, where the Arkansas decision was affirmed by a unanimous court, Mr. Justice Harlan rendering the decision.[22] After a few intervening attempts to invalidate the law through the courts, the railways finally decided to ask the electorate to repeal the statutes. An initiated act providing for the repeal was presented at the general election in October, 1926. Very vigorous campaigns were waged both by the railway representatives and by the labor group. Cartoons and page advertisements in the State papers were used freely by both sides. The result was a majority of 16,000 for retention of the laws, the vote being 65,899 for repeal and 81,899 against. The result in this election coupled with that in the 1914 vote on the State Child Labor Act, seemed to establish fairly definitely that the dominant sentiment in Arkansas favored labor legislation, providing it be shown that some general public interest, such as that in safe transportation or child welfare, be closely allied with the labor appeal.

The series of enactments just discussed, for the most part setting up safety rules for the protection of employees, was accompanied by another series extending common law remedies available to employees, for injuries suffered in the employment. The act of 1903 which provided that certain trainmen should not be required to work more than sixteen hours consecutively also provided that the common law defense of contributory negligence should not be available to the employer in an action brought for injuries suffered by one who had worked more than such period.[22a] In 1907 the Legislature abolished the fellow-servant rule as a defense against actions for personal injuries brought by the employees of any railway company, any corporation, or any coal mining company, whether corporation or not, against their employers.[23] This change was due largely to the vigorous insistence of Governor Jeff Davis. Then a 1911 statute set up a comprehensive group of provisions against railway companies in favor of their injured employees. Among other things it declared that contributory negligence should be no defense against such employee unless the employee's negligence was of greater degree than his employer's, that contributory negligence should never be a defense if the employer's violation of any safety law contributed to the injury, that the defense of "assumption of risk" should not be available against employees covered by the act, and that no contract made by the employing railway company with its employees would be effective to defeat the provisions of the act.[24] Finally, in 1913, another statute was enacted, which provided in substance that the same rules set up by the 1911 act for railroads should

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22. 219 U. S., 453 (1911).
22a. Crawford & Moses' *Digest*, Secs. 7077-79.
23. Crawford & Moses' *Digest*, Sec. 7137.
24. Crawford & Moses' *Digest*, Secs. 7138-43.



GRAND ENTRANCE TO GOVERNMENT RESERVATION, HOT SPRINGS NATIONAL PARK
(Courtesy of Chamber of Commerce, Hot Springs National Park)

be applicable against all corporations in favor of their employees, except as to injuries arising in the course of interstate commerce.[25]

Soon after these statutes were put on the books, a demand began to be heard for the enactment of a Workmen's Compensation Act. At first the demand was negligible; it gradually increased. Bills were several times introduced in the Legislature, but prior to 1929 invariably died quietly. In the latter year, however, Senator Granville Jones presented such a measure which had received the approval of the organized labor groups in the State. The proposal was also favored by numerous substantial employing groups which felt that the old system, haphazard in nature, sometimes resulting in no recovery at all by worthy employees, nearly always resulting in long delays before settlement, sometimes resulting in huge verdicts, and generally giving large contingent fees to lawyers in any case where recovery was secured, operated unfairly as to all concerned. But other employing groups opposed the measure, and by a close margin were able to defeat it. Interested groups began at once, however, to prepare for introduction of a Compensation Act at the next and subsequent sessions of the Legislature, until it should eventually be passed.

Laws dealing with the organized activities of labor and employers have been few. Two statutes, both enacted in 1905, make up practically all of such legislation. Neither has been much applied in the courts. The first prohibited the practice of "blacklisting" for the purpose of preventing workmen from getting jobs or of getting them discharged from jobs already held.[26] The other statute, under the all-embracing title of "The Trades Union Labor Act," does little beyond giving a legal status to "union labels" by penalizing the counterfeiting of them or the use of them by unauthorized persons, and providing for injunctions against such use.[27]

Regulation of private employment agencies has in recent years caused much discussion in several states. In Arkansas the discussion had not been wide-spread, but action was nonetheless taken in the field as long ago as 1923, when a statute with fairly broad regulatory provisions was enacted. The same act also provided that the State Commissioner of Labor should maintain a free employment service, and should coöperate with the Federal Employment Service.

One rather anomalous feature of the Arkansas labor legislation remains to be noticed. A section in the laborer's lien law enacted in 1883 provided that if any laborer should, without good cause, abandon his employer before the expiration of his contract, he should forfeit to his employer all wages or shares of crops due or coming due to him.[28]

25. Crawford & Moses' *Digest*, Secs. 7144-50.
26. Crawford & Moses' *Digest*, Sec. 7135.
27. Crawford & Moses' *Digest*, Secs. 10311-19.
28. Crawford & Moses' *Digest*, Sec. 6886.

Another statute, enacted on the same day in 1905 as the so-called "Trades Union Labor Act," already mentioned, made it a criminal offense to "interfere with, entice away, knowingly employ, or induce a laborer or renter who has contracted with another person for a specified time to leave his employer or the leased premises, before the expiration of the contract without the consent of the employer or the landlord. . . . . " Presumably, the explanation of the widely divergent spirit of these and other enactments is the difference in attitude toward white and colored labor in Arkansas.

CHAPTER XXXII.

THE PUBLIC DEBT.[1]

By W. C. Evans, M. A.

The year 1836 is important in Arkansas history in that it marked the transition from a territorial status to statehood. Even before James Buchanan had introduced the resolution in the House of Representatives which provided for the admission of the Territory of Arkansas into statehood, the State constitution of 1836 had been ratified. As later events were to prove, such haste was not accidental. Economic conditions then prevailing gave cause for considerable dissatisfaction; and a liberal State constitution, it was confidently believed, would enable the General Assembly to meet successfully such economic contingencies as might arise.

At this time the population of Arkansas was about fifty thousand, and the total value of its wealth did not exceed $15,000,000. Conditions typical of the frontier existed; with an abundance of cheap land, there was nevertheless a scarcity of money. The chief source of wealth was land; but as land is not a fluid asset, the people were feeling keenly the lack of a circulating medium. How to convert potential value into ready capital was the outstanding problem confronting the first legislators.

Other states, particularly Kentucky, Alabama, Mississippi, Louisiana, and Illinois, had met the same difficulty by creating State banks of issue. By 1836 Kentucky's state banking system had collapsed and had carried with it the whole structure of credit and business which it was created to foster. The failure of Kentucky's banks, however, did not silence the determined proponents of State banks and effusive issues elsewhere. Members of the constitutional convention of Arkansas were careful to point out the fact that failures among State banks were due to mismanagement, and not at all to any inherent defect in the system itself. It is, therefore, not surprising that the constitution of 1836 provided that "The General Assembly may incorporate one State Bank . . . . which shall become the repository of the State funds belonging to or under the control of the State; and shall be required to loan them out throughout the State . . . . And they shall further have power to incorporate one other banking institution calculated to aid and promote the great agricultural interest of the country; and the faith and credit of the State may be pledged to raise the funds necessary to carry into operation the two banks herein specified." The evident intention of the con-

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1. Based upon source materials, such as the Senate and House Journals, committee reports, messages of the governors, acts of the Legislature, Supreme Court Reports, Auditors' Reports, and standard historical accounts ranging from 1836 to 1929.

stitution makers was that the banks should serve a two-fold purpose: to act as a repository for State funds, and to make loans upon good security, thereby putting a larger amount of money into circulation.

The first session of the General Assembly met in Little Rock, September 12, 1836. Five days later the message of Governor James S. Conway was read before a joint session of the House and Senate. The one specific recommendation made by him to meet the current financial stringency was that "the interests of our country appear to require an early action upon the subject of banking. Our constitution has most wisely limited the number of banks to two; a number sufficiently large at any time to give a circulating medium, and to answer the agricultural and commercial interests of the State, and any measure calculated to secure these ends will receive cordial approbation."

The constitution had authorized the creation of a State system, the Governor was recommending its establishment, and since there was a State-wide demand for better credit accommodations, the establishment of such a system was inevitable. Mr. John Ringgold, Senator from Scott and Independence counties, secured the appointment of a Committee on Banking in both legislative branches; and following its enthusiastic, if specious, recommendation, the will of the Legislature was determined. In the Senate three voices were raised against such an initial experiment with State finances; but the "ancestral voices prophesying war" were powerless against popular determination.

By October 18 an act to establish the Real Estate Bank of Arkansas had been approved by both the House and Senate. Thus the first act passed by the first General Assembly of the State of Arkansas was that creating the Real Estate Bank. The act, as approved by Governor Conway, provided that there should be established in the State a bank with an original cash capital of $2,000,000 to be raised by loans or negotiations on the security of real property at its cash value, with the guarantee of the State's credit as the constitution had authorized. In order that the bank might readily secure the alloted amount of capital, the act pledged the credit of the State as security for both principal and interest, and authorized the Governor to issue two thousand bonds of a denomination of $1,000, each to be sold for the bank's capital.

Following closely upon the passage of the Real Estate Bank Act, the Assembly approved the creation of another bank—the Bank of the State of Arkansas. This act authorized the issuance of bonds of the value of $1,000,000 which, when sold, were to provide the greater part of the capital of the Bank of the State of Arkansas, or State Bank, as it came to be known later.

Thus began the public debt of Arkansas. The territorial debt had been negligible; the early governors and legislators were cautious and

conservative. When Arkansas became a State, it took over a territorial debt of $8,694.46. The auditor's report as of September 12, 1836, showed that the probable amount of revenue would be about $21,000. This would leave a balance of about $12,000 in the treasury as a nucleus for State expenditures. Before the Assembly adjourned on November 8, 1836, however, it had pledged the faith and credit of the State to the payment of bonds to the extent of $3,000,000, and had authorized the Governor to negotiate a loan of $40,000. Happily, the executive did not succeed in his negotiations for the loan. It was one debt item which did not remain to haunt later executives and legislators.

Considerable difficulty was experienced in disposing of the bonds which the State had issued and guaranteed for the benefit of the banks. The Arkansas bonds were placed upon the market at an unpropitious time. The happy results so felicitously anticipated in other states had failed to materialize; *per contra* many State banks began to suspend specie payments. The Commissioner of Indian Affairs, in Washington, had agreed to purchase three hundred of the State Bank bonds. In the interim, however, the example of State banks suspending specie payments became so general that he accepted only one hundred. It is not improbable that he purchased that allotment only because he had previously promised to buy. Anyone who is at all familiar with the trend of the State bond market in 1837 will understand the apparent wariness of investors. By adding the income from the State's share of the surplus revenue, the five per cent. fund, the seminary funds, and the saline funds to the money secured from the Commissioner on Indian Affairs, the State Bank was able to open its doors on August 6, 1837, with a capital of $413,105.29.

The bonds issued for the benefit of the Real Estate Bank fared no better on the market. In November, 1837, Governor Conway called the General Assembly together in special session and recommended that the interest rate on the Real Estate Bank bonds be increased from five to six per cent. in order that a readier market might be found. The Assembly passed an act which made the rate of interest optional with the bank, but provided that it could not exceed six per cent.

So long as Eastern banks refused to make specie payments, investors were not to be inveigled into buying State Bank securities even if the rate of interest had been increased. Early in the year 1838 banks in New York resumed specie payments, an example soon followed by other Eastern banks; and this operated to restore somewhat the faith of the investing public in State Bank bonds. In September, 1838, the Real Estate Bank succeeded in disposing of five hundred of its bonds to the Treasurer of the United States and one thousand to the North American

Trust and Banking Company in New York. Subsequently thirty were sold to Mr. Richard M. Johnson, Vice-President of the United States.

Thus supported by a solid capital of a million and a half dollars, the Real Estate Bank announced that it would be ready to begin banking operations on December 12, 1838. By April 1, 1839, the three branches of the Real Estate Bank were as active as the main bank. The reservoirs of credit opened to the people by the State Bank and the Real Estate Bank seemed to justify the abiding faith of the legislators of 1836, some of whom had secured lucrative positions in the banks.

The story of the banks from their inception is a tedious, though interesting one. The scope of this paper will not admit of any elaborate account of their activities, hence only the salient points can be dealt with, and then only as they are a part of the story of the State debt. The orgy of loans and discounts continued until October 4, 1839, when Mr. Carey A. Harris, cashier of the Real Estate Bank, announced a suspension of specie payment in order that a "prudent expansion" of the currency might be brought about. The prudent expansion policy resulted in putting paper money issued by the bank into circulation with specie, and in obedience to an inexorable economic law, specie no longer circulated freely; in its place was depreciated bank note currency, the abundance of which only resulted ultimately in a proportionately greater depreciation.

Dissatisfaction with the conduct of the Real Estate Bank became State-wide by 1842, and the election of that year resulted in a complete victory for the anti-bank ticket. Before a hostile Legislature could convene, however, the bank made an assignment of its assets to fifteen trustees, all of whom were officers of the bank. At this point the authentic history of the institution became veiled in mystery until the accountants appointed by Governor Elias N. Conway in 1856 brought it to light.

The struggle of the State Bank was no less hectic. It began operations by circulating notes of distant and non-specie paying banks, some of which ultimately became worthless. In connection with the fact, it should be borne in mind that one of the professed objects of the bank was that of supplying the State with a sound circulating medium. The Legislature came to the aid of the State Bank in December, 1837, by authorizing it to issue $200,000 in post-notes to the clamoring borrowing public. Also, the Legislature authorized a second issue of State-secured bonds for the benefit of the bank. This issue was sold outright to the North American Trust and Banking Company. Terms of the transaction placed $300,000 at the immediate disposal of the bank's officers.

The condition of the State Bank was considered sound in October, 1838. The principal bank and its branches were able to redeem their circulation with specie. The Arkansas Post branch contracted for the erection of a banking house which is said to have cost $16,000. One

writer speaks of it as being one of the finest houses in the State. Its delusions of grandeur were short-lived, however, for on October 31, 1839, the Arkansas Post branch, housed elegantly in its expensive, commodious banking home, announced a suspension of specie payment. The next day the main bank and the other branches announced a similar policy of suspension.

With such a policy of general suspension prevailing among all member banks of the State system, a near collapse of credit and business followed. It is unfortunate for many students of Arkansas history that the best description extant of conditions existing throughout the troublous years that followed the collapse of the banks is found in "Streif-und Jagdzuge," a book written by Friedrich Gerstaecker, a German writer who was living in Arkansas at that time. Commenting upon the price of foodstuffs, he wrote that a barrel of flour which sold for three dollars in other states, cost twenty-two dollars in Arkansas. He was careful to explain, however, that the difference in costs was due to the greatly depreciated condition of Arkansas bank notes.

Governor Archibald Yell, implacable enemy of the banks, forced an investigation of the State Bank and its branches in 1841. Reports from Batesville and Arkansas Post showed that the debts owed those branches could not be collected; that interest demands were absorbing the Eastern deposits credited to the branches, and that the interest demands of the next year would exhaust the supply of specie. There was no evidence of mismanagement, according to the investigators. From the branch at Fayetteville, however, came the report that its books showed surprising irregularities. A few days before the investigation began, its books had been stolen and partially mutilated. They were recovered, but not before they had been thrown into a stream of water. The complete report of the investigations showed Mr. Wm. McK. Ball, the cashier, to be a defaulter in a sum not less than $33,000. Before the report was completed, the spirit of wanderlust seized Mr. Ball and he modestly retired to the plains of Texas, a bourne from which he never returned to Arkansas.

Upon the unveiling of conditions in the State Bank, Governor Yell addressed an open letter to the people, and in his firm, decisive manner he appealed to the voters of the State to send representatives to the Legislature who would coöperate with him in carrying out such a policy as he considered indispensable to the security of the banks and the credit of the State.

When the Legislature met in November, 1842, the Real Estate Bank and the State Bank were in arrears with interest payments due on the bonds issued for them by the State. On January 1, 1841, the State Bank had made what was to be its last interest payment; and on July 1 of the same year the Real Estate Bank defaulted. The banks could expect no

leniency from the hostile Legislature; the Real Estate Bank hurriedly made an assignment, hoping thereby to escape an investigation by the Legislature. With little ceremony the legislators passed an act putting the State Bank in liquidation.

The Real Estate Bank's assignment and the putting of the State Bank in liquidation marked the collapse of the easy-credit and redundancy-of-currency theories which seemed so attractive to the legislators and the executive in 1836. And over the ruins of the erstwhile banks there loomed the ominous shadow of the State's credit pledged irrevocably to the payment of $3,206,000 to redeem bonds issued for the benefit of those institutions.

Now that the economic amulet so fondly cherished in 1836 had failed and had left the State with a debt that was little short of colossal at the time, only one course was open: to retrieve the assets held by the defunct institutions and apply them to the satisfaction of the bonded indebtedness. Several plans of liquidation were tried, but each seemed to have one result: liquidating officers collected just enough to pay their salaries. The energetic Elias N. Conway once exclaimed while he was Governor, "When the last dollar shall have been wrung from the reluctant debtor, then the State will be left to assume the liabilities of those banks." During the years of his administration, Governor Conway succeeded in making some reduction in the bank debt, but the eating moth of interest soon nullified the reduction he had made.

At the outbreak of the Civil War, the bonded debt of the State was about $2,700,000, an amount which represented its liability on account of bonds issued for the banks. During the war, no official consideration was given to the question of the State debt; perforce it lay quiescent. A bond issue of $2,000,000 was authorized by the Legislature in 1861 to raise money to carry on the war; but when the Arkansas troops were transferred to the Confederacy there was no necessity for further issues. The war bonds were disclaimed by the State as a condition precedent to its readmission after the Civil War, and so were never listed as a part of the public debt. With the coming of peace, if the nightmare of Reconstruction may be called such, the public debt again came up for consideration.

Before taking up the story of the bonded indebtedness during the post-bellum period, some attention must be directed toward the much maligned Holford bond debt. No other aspect of the debt of Arkansas has occupied public attention in the way that the notorious Holford bonds have. It is likewise true that no part of the debt has been more frequently misrepresented than has the bond issue which came to be associated with the name of Mr. James Holford.

Two widely varying interpretations have been placed upon the Hol-

ford debt. One is that it represented an attempt to force collection of a debt which the taxpayers of the State did not justly owe; the other is that the evasion of its payment in part was a moral wrong, and indicated a weakness in the moral scruples of the body politic. If the latter criticism is true, its implications are far-reaching in that it might amount to a severe condemnation of a fundamental credo of democracy itself. Indeed, the disposition of such debts has been a subject of international politics. The following account is one that has been taken directly from available soure material, and may differ in a few details from popular ideas about the Holford bonds.

On February 24, 1838, the Legislature approved an act authorizing the stockholders of the Real Estate Bank to establish a branch bank in the western part of the State. To secure the banking capital for the new member, the Governor was authorized to issue five hundred $1,000 bonds and to pledge the faith and credit of the State to their payment. Before the bonds were disposed of, the branch had been established at Van Buren. It began operations by borrowing its cash capital from the other members of the Real Estate system. The continued inability of the bank to sell the new issue had produced a stringency in two or three branches. The sixteenth section of the charter issued to the Real Estate Bank had provided that nothing less than par should be accepted for any bonds issued for the benefit of the bank; a requirement that was in the legislative acts as well. The Central Board of the Real Estate Bank evolved a plan for disposing of the bonds without violating the letter of the laws and its charter. Mr. Carey A. Harris was authorized to proceed to New York "to make arrangements, negotiations, and contracts for and on account of the bank to hypothecate, pledge, and make conditional and positive sale of the State bonds belonging thereto." Considerable secrecy hovered about the entire transaction, for three months after the bonds were hypothecated, the bank reported to the Legislature that the bonds were still in its possession.

Within a short time this ambassador of Arkansas finance had succeeded in pledging the full $500,000 issue to the North American Trust and Banking Company for $121,336.59 despite the fact that no authority was conferred by charter or statute upon any agent to hypothecate the bonds as collateral. Mr. Harris later maintained that terms of his negotiation with the New York bank required that no assignment of the bonds would be made. If so, the New York bank was faithless to its agreement, for within a month it had assigned the bonds to James Holford, a London banker, for the sum of $325,000. A short time later the North American Trust and Banking Company was declared insolvent. Upon receipt of information that the banking house that had been his fiscal agent in America was in dire financial straits, Mr. Holford made a

hurried trip to New York. While there he addressed a letter to Governor Yell, asking how he might proceed to recover the money advanced on the bonds. It was evident that he was looking toward the State of Arkansas for repayment.

Governor Yell replied that inasmuch as the charter of the Real Estate Bank had authorized it to make sales of its bonds at not less than par, its act of hypothecation at a less figure than par was a violation of its charter and consequently relieved the State of any liability: a position he maintained consistently throughout an extended correspondence with Mr. Holford.

This was the inception of the most vexing problem that has arisen in Arkansas financial history. Governor Yell, himself a lawyer of no mean ability, took the strictly legal position that illegal and unauthorized acts of an agent are not binding upon the principal, while Mr. Holford argued that the State was morally bound in equity and good conscience to redeem its bonds in the hands of innocent purchasers. Governor Yell was adamant in his refusal to accept responsibility on behalf of the State, and for a few years very little was heard from Mr. Holford. In 1850, however, he came to Little Rock and while there aided in investigating the condition of the banks. His letters to Governor Roane are models of grace and restraint, and Governor Roane considered his recommendations very attentively in regard to winding up the affairs of the banks. The leniency shown by him toward the financial condition of the State was probably due to his realization that the State could not pay at that time; or he may have known full well that his chances for collecting had tacitly been relegated to the limbo of lost causes.

Mr. Holford's death occurred a few years later. Those in charge of his estate seemed more determined to force the issue with the State. In 1855 Mr. Joseph D. Beers, with Mr. William Platenius, the latter being administrator of the Holford estate in America, brought suit in the Pulaski Circuit Court. Three weeks after attorneys representing the Holford interests had filed suit at Little Rock, the Legislature passed an act providing that in every suit brought to enforce collection of principal or interest on State bonds, the original bonds should be filed as a necessary prelude. Inasmuch as only photostatic copies had been filed with its clerk, the Pulaski court dismissed the suit upon the ground that it had no jurisdiction. An appeal to the State Supreme Court resulted in an affirmation of the lower court's decision. Thereupon Mr. Albert Pike, representing the bondholders, carried the case before the United States Supreme Court on a writ of error. Incidentally, an interesting thesis might be written about the kaleidoscopic changes in Mr. Pike's attitude toward the Holford debt.

Chief Justice Taney prepared the decision of the Supreme Court in

which he held that the sovereign cannot be sued in its own courts without its consent and permission; that it may prescribe the terms and conditions upon which it consents to be sued, and may withdraw its consent whenever it may appear that justice to the public demands it. Developing his decision logically from such premises of constitutional law, the Chief Justice was impelled to dismiss the suit because the court had no jurisdiction to override the legislative decree of a State. If the attorneys for the Holford heirs could have produced the original bonds, the United States Supreme Court would have been forced to pass upon the legality of the issue.

The question of legality came before the Supreme Court of Arkansas in 1862. Chief Justice E. H. English handed down a decision decreeing that since the Real Estate Bank had acted in violation of its charter in disposing of the bonds at less than par, the act of hypothecation was illegal and void and that the State was not liable for them. It did hold, however, that inasmuch as the bank had thought proper to appropriate to its own use the money advanced to it as a result of the transaction, it was just and reasonable that the bank became bound in equity and good conscience to repay the money so advanced to it. The most that can be said for the decision is that it settled nothing finally.

Final disposition of the Holford debt muddle was not made until 1884, and then by referring the question to the people. The story of this settlement will be told in the next chapter.

CHAPTER XXXII—(Concluded).

THE PUBLIC DEBT.

By W. C. Evans.

The close of the Civil War brought the public debt question once more into the forum of public discussion. In 1850 Mr. Holford had recommended that some funding plan be worked out. The Legislature was not inclined to look very favorably upon any suggestion that might be made by the English creditor, and the idea of funding died a premature death. In the session of 1866-67 Mr. Benjamin Collins, chairman of the Committee on Ways and Means, submitted the following report:

> The State has not paid a dollar of interest on her public debt since the first day of July, 1841. To restore the credit of the State, it is now necessary to adopt some system for funding and paying off the public debt. For a period of more than twenty-five years she has practically repudiated it.

A majority of the members opposed the funding recommendation, and there were no attempts to revive the funding proposal until 1868. In that year, however, Governor Powell Clayton was wielding a balance of power which was favorable to his own plans.

When the Republicans came into power in 1868, the bonded debt of the State was $3,363,509.19. This debt represented the State's liability for bonds issued to the Real Estate and State Banks. There was no floating debt whatever. The State was practically without credit. Governor Clayton surveyed the political horizon and decided that honesty and restoration of the State's credit demanded that some funding plan be carried out. In his message to the Legislature he recommended "most respectfully" that steps be taken toward funding the entire indebtedness of the State. The response was prompt. On December 15, 1868, the notorious McCullough Funding Bill was introduced in the House. Provisions of the bill required that the same number of bonds as those outstanding be issued, with a sufficient number of extra bonds to absorb the accrued interest. Special attention was given to the Holford bonds. Section 4 of the bill provided that the bonds issued in lieu of the five hundred bonds issued to the Real Estate Bank, numbered from one to five hundred, inclusive, Letter C, should be dated January 1, 1870. The Letter C series, 1840, were Holfords. According to the plan embodied in the bill, the entire State debt was to be funded by exchanging new six per cent. bonds for the old, over mature issues.

The people of Arkansas seemed to look with considerable favor upon any suggestion that might provide a means of escape from the financial

slough of despond into which the State had fallen. The McCullough bill, however, provoked a storm of opposition. Three objections were raised against it: some said it was untimely; others maintained that such a measure gave too much power to the Governor; but the outstanding objection was that by providing for an issue of bonds to the extent of $500,000 to absorb the Holford debt which the people believed to be only $121,339.56 plus accrued interest, the act was forcing a debt upon the taxpayers which they were neither legally nor morally bound to repay.

Bitter was the fight waged in the House and Senate against the assumption of the full amount of the Holford debt, a parliamentary struggle in which the word "Repudiation" was bandied about many times; but the coalition of Democrats and anti-Clayton Republicans was not strong enough to prevent the passage of the act. On April 6 it was approved by Governor Clayton.

Members of the Legislature knew that the act was a momentous one. Several Democratic Senators and Representatives and a few anti-Clayton Republicans issued statements explaining why they voted against the measure. A statement issued by Representative John B. C. Thurman typifies fairly the prevailing trend of thought in regard to the inexpediency of the measure:

> It will be seen by reference to this measure that it proposes to fund two classes of debts; one class is questioned as to validity and seems to be a matter to be decided by the courts. Another class of the debt is just and should be paid. The grand total of these debts will amount to more than $4,300,000.00; the interest on this debt if funded at six per cent. will amount to $258,000.00, an amount which the people will be unable to bear at such a rate. Had our just debt alone then funded, and the interest stayed for a few years, I would have supported the measure.

In accordance with the authority conferred upon him by the act, Governor Clayton ordered three thousand $1,000 bonds to be issued, and designated the American National Bank, of New York, as fiscal agent of the State in funding the debt.

Funding hardly proved to be the *summum bonum* which its ardent proponents anticipated. By 1870 Clayton was exulting over the restoration of the State's credit, but his happiness was short-lived. In 1871 the funding bonds were selling at fifty-five cents on the dollar. What miraculous power could long sustain the credit of a State whose bonds were selling at a forty-five per cent. discount? Two years later the funding bonds had declined farther in value; before long they had disappeared entirely from the market. In 1873 Governor Elisha Baxter declared dolefully: "We are confronted by a depreciation of our public securities in the money markets of the world . . . . It is manifest that some fatal defect exists in our financial system."

We have been tracing in some detail the relations of the State and Real Estate Banks to the public debt of Arkansas. It is necessary now to

point out the relations of this same debt to two other forms of development fostered by the State, namely, the railroad and the levees.

The years from 1868 to 1872 were years of an extraordinarily rapid development in railway construction in the Mississippi Valley. Doubtless railway construction at that time was linked up with the magic word Progress. Governor Clayton, as well as a majority of the members of the Legislature, was entertaining ambitious plans for the State's development. As banks were thought to be the open sesame to progress and prosperity in 1836, so did the railroads become in 1868. On July 21, 1868, the Governor approved an act which would submit to a vote of the qualified electors the proposal of the State to loan its credit to aid in construction of railroads. The proposal would authorize the Governor to issue $1,000 bonds not to exceed fifteen per mile to aid those companies that had received no federal aid, and not more than ten per mile to companies that had been aided by Federal land grants.

The demise of the State banks had taught the makers of the constitution of 1868 a lesson. The constitution of that year provided that the faith and credit of the State could never be loaned without the consent of the voters expressed at the ballot box. At the general election in November, 1868, the proposal was voted on and carried by an overwhelming majority.

Applications for aid came thick and fast. The orgy of issuing railroad-aid bonds continued until 1874, when Governor Baxter refused to issue such bonds and made public a statement that the bonds were illegal. In his book, "The Aftermath of The Civil War in Arkansas," Powell Clayton maintains that the total amount of bonds issued for the benefit of the railroads was $9,900,000. Subsequent reports of State Auditors, however, have given $5,300,000 as the total amount issued. In return for a not illiberal grant of $5,300,000, a total mileage of two hundred and seventy-one had been constructed and put into operation.

The reconstructionists did not limit their benevolent issues to railroads. On March 21, 1871, Governor Ozra A. Hadley approved an act to provide for building and repairing levees of the State. Since the failure of a certain plan devised by King Cnut, levees have been looked upon as the only method whereby overflows may be prevented and floods held in check in times of excessive rainfall. The rainfall was excessive in Arkansas in 1870, with the result that improvised levees had been swept away and the need for others made evident. Under terms of the levee act, contractors who had completed their work on public levees should be entitled to receive their pay in Arkansas levee bonds that were to earn interest at the rate of seven per cent. The act further provided that if a railroad company should construct a railroad bed which might serve as a levee, it would be entitled to receive levee bonds from the Treasurer

equal to the cost of building a protecting levee. Despite the fact, however, that the act expressly provided that bonds might not be issued in excess of $3,000,000, issues aggregating $3,005,846.95 were in circulation in 1878. One railroad, the Little Rock, Pine Bluff and New Orleans, received levee bonds to the value of $369,000 and railroad bonds to the amount of $1,200,000. A legislative committee reported in 1883 that "if this railroad serves to protect any part of the country, we are not aware of it." The White River Valley and Texas Railroad, a road that was never built, received levee bonds to the value of $170,000. If the reconstructionists were not extravagant, they must have made profuse expenditures.

One other item of the public debt remains to be considered before bringing to a close the history of Arkansas finances while the State was in the hands of reconstructionists. A previous reference has been made to the fact that in 1868 there was no floating debt. Between 1868 and 1873, however, State scrip and auditors' warrants were issued with but little regard as to amounts. By January 1, 1873, such certificates of indebtedness to the amount of $1,100,000 were outstanding. The grand total of the State's debt at that time was $13,612,397. To secure this debt, the State had assets valued at $2,750,000. Such was the desideratum of six years of misrule.

The election of 1874 returned the Democrats to power and shattered the political régime foisted upon the State by the Congressional plan of Reconstruction. A new constitution was prepared and adopted by a popular vote of more than three to one. The Legislature met November 10, 1874, and for the first time since 1868 it was composed largely of men who were natives of Arkansas. The retiring Governor, Elisha Baxter, sent his message to both houses the next day. In it he reviewed the stormy period from which the State had just emerged, and in unequivocal language condemned the fiscal policies of the Reconstructionists. "The railroad bonds," he said, "have been an obstacle in the way of railroad development. . . . . While the State was thus being despoiled, the annual revenues were falling farther and farther behind expenditures." Of the debt proper, he said: "In the present financial condition of the State, it is impossible to make immediate provision for the payment of any part of the public debt; but the creditors of the State may implicitly rely upon the ultimate payment of every obligation which she justly and legally owes. As for the bonds issued in open disregard of law, probably no definite action should be taken at this time." The only specific recommendation he made was that the Legislature might consider very carefully some plan for funding.

The Legislature was wary of another general funding plan, and instead of turning its attention to a plan that had proved a failure, it

attacked the perennial debt question from a new sector. Senator J. M. Loughborough introduced a bill which would create a State Board of Finance, composed of the Governor, the Auditor, and the Treasurer, and would vest them with authority to issue any amount not to exceed $2,500,000 in thirty-year bonds for the purpose of absorbing the floating debt and to provide for the support of the State government. To secure the bonds so issued, all unsold State lands were to be mortgaged. This act was approved December 22, 1874.

The Finance Board used the bonds issued under the Loughborough Act very cautiously. Although the act had authorized the board to issue bonds to the value of $2,500,000, only $756,000 was actually issued. Of this amount, $256,000 was used to redeem outstanding scrip. An issue of $500,000 was approved by the board in 1875 to be used as security for a loan which had just been negotiated to pay current expenses of the State. Some time later one hundred and seventy Loughborough bonds were deposited in the treasury in lieu of United States securities then on deposit to the credit of the permanent school fund. The securities taken from the treasury were subsequently sold by the Finance Board to raise money to pay certain contingent expenses. In May, 1885, the bonds so deposited were redeemed in specie, and at the close of the fiscal year in July, $177,619.06 in specie was in the treasury to the credit of the permanent school fund. The transaction whereby the Finance Board used securieties belonging to the school fund came in for acrid criticism by no less a renowned personage than Powell Clayton, who was now watching the scene from afar.

The struggle between Joseph Brooks and Elisha Baxter over the governorship in the spring of 1874 had brought the State Militia into the field. The expense of maintaining the militia during the struggle was not met immediately. On May 29, 1875, Governor A. H. Garland approved an act which authorized him to issue bonds not in excess of $200,000 to pay the militia debt and the expenses of the Legislature. The full amount was issued and sold, but was found to be inadequate. The fall session of the Legislature authorized a supplementary issue of $80,000. The bonds issued during the administration of Governor Garland were commonly referred to as Ten-Year Bonds. These were paid.

As early as 1869 a distinction had been made between the "just" and "unjust" portions of the State debt. The subsequent issues of railroad and levee bonds had intensified the opinions of many that a part of the public debt was illegal and unjust. By 1877 a judicial review was inevitable. In May of that year the validity of the railroad bonds came before the State Supreme Court in the case of the State of Arkansas versus the Little Rock, Mississippi River and Texas Railway. The ostensible purpose of the suit was to recover interest payments which had been



EUREKA SPRINGS FROM SOUTH MOUNTAIN

made upon certain railroad aid bonds; the real purpose of the suit, however, was to test the validity of the act authorizing the Governor to issue such bonds. The court held the bonds utterly void—a decision that was not unexpected. In his book of reminiscences, Powell Clayton says that the Supreme Court of Arkansas held the railroad-aid bonds illegal upon the technicality that the names of those voting for or against the measure were not entered in the legislative journal—a misrepresentation that is still believed. The truth of the matter is that the Supreme Court held the bonds invalid upon the ground that the election which authorized their issuance was held ten months before the legislative act went into effect.

Following the court's decision nullifying the State's liability for the railroad bonds, a suit attacking the validity of the levee bonds was filed. The Commissioner of State Lands had refused to accept a levee bond as part payment for some land. Suit was brought in the Pulaski Circuit Court in an attempt to secure a writ of mandamus that would compel him to accept the proffered bond. In his decision, the Pulaski judge held that the bond must be accepted. Thereupon the commissioner appealed to the State Supreme Court. The decision of the higher court was eminently satisfactory to the people of Arkansas, as it held that the levee bonds had been issued in violation of "an essential and imperative requirement of the constitution of 1868." The essential and imperative requirement disregarded by the Legislature in providing for the issue of levee bonds was that the names of those voting for or against the bill must be entered upon the journal. The yeas and nays were not so entered when the levee bond act was passed. As a consequence, the court held the bonds utterly void.

Thus at two strokes the Supreme Court declared void and illegal two issues of State bonds whose combined principal and interest amounted to $9,990,787.74. The undisputed debt remaining after the decrees of the court was on September 30, 1878, $5,457,550. Even after the decisions of the court, the illegal portions of the debt were sometimes listed in official reports as part of the State's liabilities. In persistence the disputed debt was vying with Banquo's ghost. Its Ixion-like recurrence as a problem brought a threat from Mr. W. M. Fishback, representative from Sebastian County in the Legislature of 1877. Two years later his threat materialized in the form of a proposed amendment to the Constitution:

> The General Assembly shall have no power to levy any tax or make any appropriation to pay either the principal or interest or any part thereof of the following bonds: Bonds issued under an act of the General Assembly entitled "An act to provide for the funding of the public debt of Arkansas," approved April 6, 1869, and numbered from 491 to 1680, inclusive, being the funding bonds issued to F. W. Caper and sometimes called

"Holford Bonds"; or bonds known as railroad aid bonds, issued under an act of the General Assembly entitled "An act to aid in the construction of railroads," approved July 21, 1868; or bonds called "levee bonds," being bonds issued under an act of the General Assembly entitled "An act providing for the building and repairing of the public levees of the State, and other purposes, approved March 16, 1869, and the act entitled "An act to amend an act entitled 'an act providing for the building and repairing of the public levees of the State,'" approved March 23, 1871, and any law providing for any such tax shall be null and void.

On April 2, 1879, the proposed amendment was given the approval of a joint session of the House and Senate. Repudiation now became an open issue to be voted upon by the people in the next general election. A. H. Garland and U. M. Rose led the fight against the proposed amendment. When the complete returns came in from the general election, they showed that the policy of repudiation had been defeated by a majority of only three thousand, three hundred and twenty-one votes.

In his message to the Legislature in 1883, Governor Thomas J. Churchill recommended the appointment of a committee to make a comprehensive distinction between the disputed and undisputed portions of the State debt. In March the committee reported the results of a fairly exhaustive examination. In their report they listed the following items as part of the undisputed debt:

For Bonds Issued to the State Bank.....	$441,985 00
For Bonds Issued to the Real Estate Bank.....	813,270 00
For Funding Bonds	2,372,565 00
For Ten-year Bonds	6,200 00
For Loughborough Bond	430,000 00
	$4,054,020 00

The total amount of the disputed debt, as calculated by the committee, was $10,333,456.95, which represented the debt on account of the Holford bonds, the levee bonds, and the railroad-aid bonds. It is significant that the report of the committee listed the entire Holford issue as a part of the disputed debt. Even before the committee had reported, however, Governor James H. Berry had told the Legislature in no uncertain terms that "the fact that there are outstanding bonds representing some thirteen million dollars which are claimed by the holders to be valid obligations of the State, but are believed by a large portion of our people to be fraudulent and void, has proven a constant source of embarrassment and annoyance. The best interests of the people demand that the question of the State' liability be definitely settled. . . . . The question of its liability must be finally determined by the people."

Supported by the recommendation of the Governor, the atavar of repudiation once more asserted itself. The joint resolution introduced four years before by Mr. Fishback was revived and approved by the House and Senate. Public opinion had undoubtedly crystallized in favor

of making final disposition of the disputed-debt bogey at the approaching election. And on September 2, 1884, the voters, tired of an unceasing agitation about a questioned obligation, went to the polls and by a vote of 119,000 to 15,500 (nearly eight to one) approved Amendment Number One to the constitution forever precluding any payment upon the disputed part of the State debt. *Consummatum erat.* While the classically erudite Mr. Fishback was felicitating the taxpayers with fond superlatives, men like Augustus H. Garland and Judge U. M. Rose saw with unfeigned sorrow the shadow of repudiation cast over their native State.

Reduced to its simplest analysis, the Fishback Amendment denied the State's liability for the railroad-aid bonds, the levee bonds, and the Holford bonds. It did not repudiate one cent of the debt represented by the bonds issued to the State Bank and the Real Estate Bank, except the $500,000 issue of the Holfords. The bank bonds, with the Loughborough and Ten-Year bonds remained as valid, recognized liabilities of the State. Opinions meticulous in their honesty will vary as to the amount repudiated with the Holfords, for who can finally answer the question: What was the original debt? Was it the full amount of $500,000 for bonds legally authorized but illegally disposed of, or $121,336.59, the sum received by the Real Estate Bank in exchange for the bonds? Or did the illegal and unauthorized disposition of the bonds relieve the State of all liability? If $121,336.59 represented the initial liability, as the Supreme Court of Arkansas held, the debt in 1884 was that amount plus interest accumulations, or a total of $412,017.87. By 1884, however, Holford bonds to the value of $102,000 had been redeemed, and interest payments to the extent of $227,370 had been made. There had been paid a total of $329,370 toward liquidation of the debt. If from the amount due in 1884, the total of payments be subtracted, the result is $82,647.87. Those who maintain that $121,336.59 was the original debt must be prepared to admit that the voters in 1884 repudiated a just debt of not less than eighty-two thousand dollars. Lovers of mental calisthenics may well find pabulum in other things than Kant's Critique of Pure Reason. There is, for example, the tortuous problem of "those Southern repudiated bonds."

Ratification of the Fishback Amendment solved the problem of the disputed debt, but the undisputed portion of nearly five million remained to tax the acumen of the Legislators. An act of April 2, 1885, created a State Debt Board and authorized it to make an exhaustive investigation of the remaining bonded indebtedness. In January, 1887, the board reported the results of its examination, showing the bonded debt to be $4,862,432.50 and recommending that a special tax be levied upon all taxable property in the State for the purpose of creating a sinking fund to meet interest obligations and to make reductions in the principal

whenever possible. The Legislature responded by levying the special tax recommended.

The responsibility for clarifying the debt muddle now passed from the Legislature to the Debt Board, not improbably to the infinite delight of the former. The board labored assiduously at the task of reducing the outstanding obligations; and in the period from 1888 to 1890 it succeeded in redeeming bonds and making interest payments to the extent of $395,000. The Legislature of 1891 appropriated $300,000 from the sinking fund for the next two years for the purpose of making further reductions in the debt. In the act making the appropriation, the Legislature saw fit to declare that "the rights of any holder of said (State) securities to the benefits herein provided shall be considered as vested and unextinguishable from the time of issuing thereof until said certificates shall have been paid off and discharged." By a strange irony of fate, this *obiter dicta* assurance of no more repudiation was given by a Legislature when William Meade Fishback was Governor.

By 1894 the taxable values of the State had increased to $174,000,000 and in consequence of the increased revenue realized, the Debt Board had reduced outstanding obligations to $4,621,729.71. Of that amount, $2,469,659.17 was due the United States on account of old bank bonds held by the treasury department. Arkansas securities had risen in market value until they were selling at sixty-seven cents on the dollar. By November, 1895, the public debt had decreased to $4,025,759.17. Time was justifying the wisdom of entrusting the debt question to a board.

For more than twenty years a troublesome and complicated dispute had existed between the United States and the State of Arkansas on account of the fact that the United States owned State bonds that had been issued for the defunct State Bank. The State claimed the right to offset the unliquidated claim because of the failure of the Federal Government to patent to it a large quantity of land to which the State became entitled under the Swamp-Land Grant, an act of Congress of September 3, 1850. There were also other credits claimed by the State and recognized at Washington. Governor Fishback attempted negotiations with the Secretary of the Treasury during his administration, but was unsuccessful.

Under authority of an act of the State Legislature in 1889 and of Congress, Governor James P. Clarke and the Secretaries of the Treasury and Interior met in Washington early in the year of 1895 to make settlement. On February 23 they concluded negotiations by agreeing to a compact of settlement which obligated the State to pay $160,572. Apart from that amount, the compact decreed that all other claims mutually offset one another. The terms of compromise were not altogether to the liking of Congress, and it refused to accept the compact. In 1897, how-

ever, the final compromise of debts was agreed to by Congress when Arkansas accepted the Meiklejohn amendment, which obligated the State to surrender 273,000 acres of disputed lands to railroad corporations. In making settlement with the Secretary of the Treasury, Governor Dan W. Jones executed promissory notes for the State aggregating $160,000. When the notes became due in 1907, the Legislature authorized the State Treasurer to pay them off from funds in the sinking fund. In the final determination of the debt compromise, the sum of $1,529,000 in bonds were received from the Federal Treasury; and since these were Arkansas bonds, the compromise meant that the State had reduced its bonded indebtedness by that amount.

The Debt Board, heartened by the reduction made by the compromise, decided that the time was propitious for a plan of general funding of the debt, and in 1899 made such a recommendation to the Legislature. In May of that year the Legislature succeeded in agreeing upon a plan for funding the entire public debt, except the promissory notes held by the Secretary of the Treasury. Holders of State securities were notified through New York and Little Rock papers of funding arrangements, and were instructed to surrender any securities within six months. Holders who failed to surrender their securities were to be forever barred from deriving further benefits from their certificates. In October, 1900, fifty-eight bonds had not been presented for funding. The Legislature of 1901, doubting the justice of the barring clause, extended the time for presentment for six month. Thirteen of the old bonds were never surrendered to the State Treasurer; it is thought that they were destroyed by a fire in Scotland.

The funding procedure, as carried out by the Debt Board, was simple. Securities in the treasury which were credited to the Permanent School Fund were exchanged for the surrendered State bonds, and the funding bonds of 1899 were deposited in lieu of the securities taken from the school fund. In 1902 the total debt of the State was $1,459,915.95, of which $1,118,500 was owing to the permanent school fund. The bonds in the treasury carried an interest rate of three per cent. until 1917, when the Legislature passed an act providing that the funding bonds then in possession of the permanent school fund should be cancelled and new ones maturing in 1947 and bearing an interest rate of five per cent. should be substituted therefor. Truly, part of the old bank debt we have with us yet; it has become, to all practical intents and purposes, permanent.

By 1904 one thousand two hundred and seventy-four bonds had been issued in accordance with the funding act of 1899. All interest demands had been met promptly, and a surplus in the sinking fund had enabled the treasurer to redeem fifteen outstanding bonds. One hundred and seventeen funding bonds had been deposited to the credit of the University

Endowment Fund. The State debt was then $1,274,000. What categorical imperative prompted one prominent State official to declare proudly that the State owed practically nothing?

In 1905 the Legislature reduced the general revenue tax from two and one-fourth mills to one and three-fourths. At the same time it made appropriations largely in excess of those of previous years. Increased demands from the University of Arkansas and the State Normal School, as well as those from all State elemosynary institutions, and the subsequent establishment of four agricultural schools, were important factors in producing a strained financial condition of the State. By anticipating revenues an appreciable deficit was avoided until the summer of 1911 when the State went on a scrip basis and continued so for about a year. Recourse to the use of scrip at a time when taxable values were increasing was a source of much adverse criticism. Only Governor George W. Donaghey's drastic exercise of the veto prevented the deficit from becoming larger in amount. In 1913 the Legislature responded to the appeals of the Governor and Auditor by raising the tax for general revenue to its old level of two and one-fourth mills. The increased rate brought in sufficient revenue to meet all contingent expenses. Nevertheless the deficit incurred during the period from 1909 to 1913 still existed.

In 1917 Governor Charles H. Brough recommended to the Legislature that an issue of State notes be authorized for the purpose of absorbing the amount of the deficit. Acting upon his advice, the Legislature passed an act authorizing the Debt Board to issue not more than $750,000 in promissory notes of the State, maturing in from five to twenty-five years and bearing an interest rate of five per cent. The act decreed that money arising from the sale of such notes should not be used for any purpose other than that of liquidating the deficit existing in the general revenue fund. Notes aggregating $750,000 were issued under authority of the act, with the condition that they are to mature as follows: Fifty thousand in 1922, and fifty thousand each year thereafter until 1936. The notes so issued have come to be known as Brough notes. It is significant that even as late as 1917 New York banks were not allowed to handle any State securities of Arkansas. New York still looked askance at securities issued by a state that had once gone on record in favor of repudiation and that would not levy a tax to liquidate a fiscal deficit. At the close of the fiscal year 1917, the State debt had increased to $2,008,166.67 as a result of the issue of Brough notes and an increase of the University Endowment Fund from $116,000 to $123,666.67.

For several years the State Penitentiary had operated under an indebtedness. In 1921 Governor Thomas C. McRae asked the Legislature to make some provision for putting it on a cash basis. An act was passed authorizing the Debt Board to sell promissory notes of the State not in

excess of $350,000 in amount to cover the deficit in the penitentiary fund as of February 7, 1921. The notes were issued to bear an interest rate of six per cent., and the full issue was sold to the Bankers Trust Company of Little Rock. Before adjourning, the Legislature authorized a transfer of $180,000 from the permanent school fund to the general revenue fund, and empowered the Debt Board to issue $180,000 in six per cent. certificates to be deposited to the credit of the school fund. The 1921 issues brought the State debt to $2,438,166.67.

The fact that the University of Arkansas had fared badly at the hands of the Legislature for many years was well known even before 1925. In that year Governor Tom J. Terral, true to a campaign promise, recommended to the Legislature that it make some provision for a building program at the university. Accordingly an act was approved authorizing the Debt Board to issue negotiable promissory notes from time to time, never to exceed $650,000 in principal, for the purpose of erecting and equipping buildings on the campus at Fayetteville. As interest accrues on these notes, it must be paid out of the university fund.

The Legislature of 1927 continued the policy of issuing notes. Its first note-issuing act was one providing for the creation of a pension fund. Although the State had been paying pensions since 1891, only needy ex-Confederate veterans or the widows of veterans were recipients of the State pension. For the benefit of all accredited veterans, a special tax had been collected. On February 17, 1927, an act was passed which required the Pension Board to issue bonds of the State not in excess of the following amounts:

For the Year 1927.....	$3,000,000 00	For the Year 1931.....	$1,750,000 00
1928.....	2,750,000 00	1932.....	1,250,000 00
1929.....	2,500,000 00	1933.....	750,000 00
1930.....	2,000,000 00		

When the bonds are sold, their proceeds go to the Confederate Pension Fund, and are administered by the Pension Board. A special tax of two mills was levied by the act to create a sinking fund from which both principal and interest are to be paid. All dependent veterans, as well as widows of deceased veterans, are now being paid pension money derived from sales of the notes, not over $600 a year.

States have gone in debt for canals, for railroads, and as parlance of earlier days would have it, for "turnpikes" in the hope that transportation facilities might thereby become improved. The advent of the the automobile and truck has meant an increase in the rapidity of transportation; but if they are to realize more nearly their full utility, comfort, safety, and economy demand that common roads give way to complete highway systems. In several states highways have done more than to facilitate exchange of marketable commodities: they have given their

State unprecedented advertising. The example of North Carolina comes readily to mind. When the Legislature met in 1927, it was practically a foregone conclusion that the Harrelson Road Law would be altered, or repealed and another law enacted. A special committee worked out a plan whereby a uniform system of highways might be begun in Arkansas. According to the plan an honorary State Highway Commission would be appointed and given authority to borrow any amount of money necessary to carry out a system of highway construction, so long as the amount borrowed does not exceed $13,000,000 annually for the next four years. To borrow the necessary money, the commission is empowered to issue State highway notes secured by a tax on gasoline. After considerable debate the proposed act was passed by the House and Senate, and was approved by Governor John E. Martineau. It is very probably that no more popular act has ever been enacted in the entire history of Arkansas legislation than the Martineau Road Law. This same law provided that the State should assume certain bonds issued by road improvement districts amounting to $64,169,100, with outstanding interest amounting to $34,600,683.35, due January 1, 1927. The first issue of highway notes sold for $13,100,000, the premium of one hundred thousand dollars being evidence of the excellence of the State's credit when the notes were placed on the market. At a special session held in the fall of 1928, the Martineau act was so amended as to provide for a supplementary issue of highway notes not to exceed $18,000,000 over a period of four years. Provision was also made for the issuance of bonds not to exceed $2,500,000 a year or $7,500,000 in the aggregate, for the building of State toll bridges. If the completion of highway plans demands the issuance of the full amount authorized by the acts, the debt of the State on account of its roads may be, by 1932, $176,269,783.35, less the amount paid up to that time. The amount scheduled for payment in 1930 is $7,557,584.25, after which there is to be a gradual decline until 1958, when the road bonds are to be paid in full. The highway bonds are secured by a tax on gasoline and automobile license fees.

The Legislature of 1929 enacted a law creating a commission to be known as the Arkansas Construction Commission, authorizing it to borrow any sum not in excess of $3,250,000 to provide adequate buildings for the Hospital for Nervous Diseases and the State Tuberculosis Sanitarium. To carry out the full requirements of the act, it authorized an issue of State bonds to be known as "State Construction Bonds" never to exceed $3,250,000 in value. To provide for the payment of the bonds, the act commands the State Treasurer to set aside a part of the proceeds of the income tax as a sinking fund, or a "State Construction Fund," annually for the retirement of interest and principal of the bonds.

It is difficult to state the amount of the debt at any particular time, but the following summary for the situation, exclusive of roads and bridges, at the close of 1929 seems to be fairly accurate.[2]

The Permanent School Fund	$1,134,500.00
University Endowment Fund	132,666.67
Brough Notes	350,000.00
Penitentiary Notes	272,000.00
Tucker Farm Notes	24,000.00
University Building Fund	650,000.00
A. and M. Negro School	275,000.00
Revolving Loan School Bonds	500,000.00
Construction Bonds (Hospital)	750,000.00
Confederate Pensions	8,250,000.00
Total	$12,336,166.67

This does not include $150,000, the balance apparently still due on the $180,000 borrowed for the penitentiary from the general revenue fund in 1921. This illustrates a policy long followed of borrowing from Peter to pay Paul, that is, of using funds collected for one department to meet the obligations of another. This is especially true of the permanent school fund. The table assumes that the Pension Board issued all the law allowed. For the grand total debt, to the total in the table above must be added the huge debt for road building, given on the preceding page. The amount of the county and municipal and district debts is unknown, but it is considerable. The total amount of State and local debts seems large when compared with the assessed valuation, which is only about $610,000,000, but this is less than half of the real value of all property and the road bonds are not based on this, but are secured by the tax on gasoline and motor licenses.

The history of its past must now resign its task to the uncertain future, and it can do so no more fittingly than in the words of John Morley: "The oracle of to-day falls from its tripod on the morrow. In the affairs of men and states, as with the elements, the wind blows, the ship swings. Only let the anchor hold."

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2. Based on Reed's Sixth Biennial Report of the Auditorial Bureau (1927-29), p. 14. The table and several of the statements regarding recent bond issues were added by the Editor.